

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2021] SGHCF 1

Divorce (Transferred) No 5670 of 2018

Between

VNW

... Plaintiff

And

VNX

... Defendant

GROUND OF DECISION

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

TABLE OF CONTENTS

INTRODUCTION	1
BACKGROUND	1
THE HEARING OF THE ANCILLARY MATTERS.....	3
THE POOL OF MATRIMONIAL ASSETS	4
ITEMS 1, 2, 3, 4 AND 5 OF JOINT SUMMARY - JOINT BANK ACCOUNTS.....	6
ITEM 7 OF JOINT SUMMARY – HUSBAND’S PROPERTY IN LIVERPOOL	7
ITEM 8 OF JOINT SUMMARY – HUSBAND’S PROPERTY IN CHESHIRE	8
ITEM 9 OF JOINT SUMMARY - HUSBAND’S VOLKSWAGEN CAR.....	9
ITEM 10 OF JOINT SUMMARY – HUSBAND’S BMW COUPE	10
ITEM 11 OF JOINT SUMMARY - HUSBAND’S AUSTRALIAN INSURANCE POLICY	11
ITEM 12 OF JOINT SUMMARY – HUSBAND’S MICROSOFT CORPORATION EMPLOYMENT STOCK PURCHASE PLAN	11
ITEM 13 OF JOINT SUMMARY – ANNUAL MICROSOFT STOCK AWARDS.....	12
ITEM 14 OF JOINT SUMMARY – HUSBAND’S SHARES IN SALESFORCE.....	13
ITEM 15 OF JOINT SUMMARY – HUSBAND’S IBM SHARES.....	16
ITEM 16 OF JOINT SUMMARY – HUSBAND’S OTHER IBM STOCKS	16
ITEM 17 OF JOINT SUMMARY – HUSBAND’S COMMONWEALTH BANK ACCOUNT	17
ITEM 18 OF JOINT SUMMARY – HUSBAND’S DBS MULTIPLIER ACCOUNT	17
ITEM 19 OF JOINT SUMMARY – HUSBAND’S NATIONAL WESTMINSTER ACCOUNT	18
ITEM 20 OF JOINT SUMMARY – HUSBAND’S JAPANESE BANK ACCOUNT.....	18

ITEM 21 OF JOINT SUMMARY – THE HUSBAND’S ING BANK ACCOUNT.....	19
ITEM 22 OF JOINT SUMMARY – THE HUSBAND’S CPF ACCOUNT.....	19
ITEM 23 OF JOINT SUMMARY – THE HUSBAND’S CAP GEMINI (UK) PENSION PLAN	20
ITEM 24 OF JOINT SUMMARY– HUSBAND’S ALLIED DUNBAR (ZURICH ASSURANCE) PENSION PLAN.....	21
ITEM 25 OF JOINT SUMMARY – HUSBAND’S SAP (UK) LTD GROUP PENSION PLAN	22
ITEM 26 OF JOINT SUMMARY - LUMINOR WATCH.....	23
ITEMS 27-30 OF JOINT SUMMARY – HUSBAND’S ART COLLECTION	24
ITEMS 31, 32 AND 33 OF JOINT SUMMARY – SUMS ALLEGEDLY DISSIPATED BY THE HUSBAND IN 2017 AND 2018	24
ITEM 34 OF JOINT SUMMARY –HUSBAND’S INVESTMENT IN SOURCE FOOD FRANCHISE	27
ITEM 35 OF JOINT SUMMARY – HUSBAND’S ROAD BIKES	29
ITEM 36 OF JOINT SUMMARY - 40 FEET CONTAINER IN AUSTRALIA.....	30
ITEM 37 - BRITISH CLUB MEMBERSHIP	31
ITEM 38 - THE WIFE’S CAR.....	31
ITEMS 39, 40, 41, 42 AND 43 – WIFE’S BANK ACCOUNTS.....	31
ITEM 44 – WIFE’S WATCH	32
MAINTENANCE FOR THE WIFE.....	32
MAINTENANCE FOR THE CHILDREN.....	34
COSTS.....	41

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

VNW

v

VNX

[2021] SGHCF 1

High Court Family Division — Divorce (Transferred) No 5670 of 2018

Tan Lee Meng SJ

21 September, 12 November, 16 December 2020

4 January 2021

Tan Lee Meng SJ:

Introduction

1 The plaintiff (“the Wife”) and the defendant (“the Husband”) appeared before me in relation to ancillary matters following their divorce. Part of their dispute with respect to these matters was settled by consent while I made orders relating to the maintenance of the child and the plaintiff and the division of matrimonial assets. I set out below the grounds for my decision.

Background

2 The Husband and the Wife, who are citizens of the United Kingdom and permanent residents of Singapore and Australia, registered their marriage in Singapore in December 2006. The parties have two children, a son, aged 17, and a daughter, aged 13.

3 The marriage lasted 12 years and 2 months. During this period, the parties lived in Singapore from March 2006 to November 2011, Australia from November 2011 to September 2014 and Japan from September 2014 to November 2016. They returned to Singapore in November 2016.

4 The Wife, who accused the Husband of being unfaithful to her, filed for divorce in December 2018. The Husband did not file a Defence or Counterclaim. Interim judgment was granted on 20 February 2019 on the basis of the Wife's claim that the marriage had irretrievably broken down as the Husband had behaved in such a way that she cannot reasonably be expected to live with him.

5 After the interim judgment, the parties attended the Child Focused Resolution Centre ("CFRC") programme for divorcing parents as the law requires such parents with at least one child below the age of 21 years to participate in the said programme of counselling and mediation as part of the divorce proceedings. After participating in the programme, the parties resolved the issues of custody, care and control and access in relation to the children by themselves.

6 A consent order relating to the matters resolved by the parties was recorded on 15 April 2019. The parties were given joint custody of the children while the Wife was given care and control of the children. The Husband was granted weekday and weekend access and access to the children during school holidays /Christmas period were to be mutually agreed between the parties. It was specifically provided in the consent order that for the avoidance of doubt, the issues of custody, care and control, and access will not be dealt with in the ancillary matters proceedings and that where necessary, the access schedules

may be revised by the parties' agreement, "taking into consideration the Children's schedules and wishes, and the [Husband's] availability".

The hearing of the ancillary matters.

7 For the purpose of the ancillary hearing, the parties filed a number of affidavits. The Wife filed her first Affidavit of Assets and Means ("WA1") on 5 August 2019 and her second Affidavit of Assets and Means ("WA2") on 26 June 2020. As for the Husband, he filed his first Affidavit of Assets and Means ("HA1") on 26 July 2019 and his second Affidavit of Assets and Means ("HA2") on 19 June 2020.

8 The issues that were before the court in relation to ancillary matters were as follows:

- (a) the operative date for determining the pool of matrimonial assets;
- (b) the operative date for valuing the pool of matrimonial assets;
- (c) the just and equitable division of the matrimonial assets;
- (d) maintenance for the Wife; and
- (e) maintenance for the children.

9 At the hearing of the ancillary matters on 21 September 2020, the parties agreed that their matrimonial assets should be divided equally and that the date for ascertaining what is in the pool of matrimonial assets should be the date of interim judgment.

10 It was further agreed between the parties that the date for determining the amount in the bank accounts forming part of the matrimonial assets will be the date of interim judgment, namely, 20 February 2019, and that the date for determining the value of other matrimonial assets will be the date of the hearing of the ancillary matters, which is 21 September 2020.

11 Finally, it was common ground that in relation to matrimonial assets with values expressed in foreign currency, the exchange rate for conversion of the foreign currency to Singapore dollars will be the rate on 21 September 2020.

12 As the parties reached agreement on the above-mentioned matters, the only matters left to be determined concerned what is to be included in or excluded from the pool of matrimonial assets, the monthly maintenance for the Wife and the monthly maintenance for the two children.

The pool of matrimonial assets

13 As for what is to be included in or excluded from the pool of matrimonial assets, section 112(10) of the Women’s Charter (Cap 353, 2009 Rev Ed) (“Women’s Charter”) defines a “matrimonial asset” as follows:

In this section, “matrimonial asset” means –

- (a) any asset acquired before the marriage by one party or both parties to the marriage –
 - (i) ordinarily used or enjoyed by both parties or one or more of their children while the parties are residing together for shelter or transportation or for household, education, recreational, social or aesthetic purposes; or
 - (ii) which has been substantially improved during the marriage by the other party or by both parties to the marriage; and
- (b) any other asset of any nature acquired during the marriage by one party or both parties to the marriage,

but does not include any asset (not being a matrimonial home) that has been acquired by one party at any time by gift or inheritance and that has not been substantially improved during the marriage by the other party or by both parties to the marriage.

14 In relation to the burden of proof as to whether a property is or is not a matrimonial asset, in *USB v USA and another appeal* [2020] SGCA 57, the Court of Appeal stated (at [31]-[32]):

31 ... When a marriage is dissolved, in general all the parties' assets will be treated as matrimonial assets unless a party is able to prove that any particular asset was either not acquired during the marriage or was acquired through gift or inheritance and is therefore not a matrimonial asset. The party who asserts that an asset is not a matrimonial asset or that only a part of its value should be included in the pool bears the burden of proving this on the balance of probabilities. This rule obviates many difficulties that may arise in the court's fact-finding exercise and is consistent with the general approach to legal burdens in civil matters.

32 Conversely, we might add, where an asset is *prima facie* not a matrimonial asset, the burden would lie on the party asserting that it is a matrimonial asset to show how it was transformed [into a matrimonial asset]

....

15 In the present case, the Wife lambasted the Husband for failing to fully and frankly disclose his assets in his affidavits. She also complained that instead of stating his position in his affidavits, the Husband had, in the Joint Summary of the respective positions of the parties as at 6 August 2020 (the "Joint Summary"), attempted to adduce new evidence and raise issues and allegations for the first time without supporting documentary evidence. She contended that this attempt to raise new issues and allegations after all affidavits in relation to ancillary matters had been filed cannot be countenanced as the Joint Summary contains the lawyers' submissions on the parties' respective positions as at 6 August 2020 and not the evidence of the parties. Furthermore, the Wife has not had the opportunity to respond to the allegations in the Joint Summary.

16 The Husband retorted that he had tried to be co-operative with respect to the ancillary matters but he suffered from depression during the divorce proceedings and found it difficult to look at his solicitors' e-mails or reply to them in a timely manner.

17 For convenience, what was included in or excluded from the parties' pool of matrimonial assets will be considered in the sequence in which the parties' assets were listed in the Joint Summary.

Items 1, 2, 3, 4 and 5 of Joint Summary - Joint Bank accounts

18 Items 1, 2, 3, 4 and 5 of the Joint Summary concern a number of bank accounts held in the parties' joint names. These are as follows:

- (a) a joint savings account with DBS with a balance of S\$527.98;
- (b) a joint savings account with POSB with a balance of S\$8,163.62;
- (c) a joint account with Commonwealth Bank with a balance of AUD10,119.26; and
- (d) two joint foreign currency accounts with Commonwealth Bank with no money in the accounts.

19 As it was accepted by the parties that the funds in the above-mentioned bank accounts are matrimonial assets, the said funds were included in the pool of matrimonial assets.

Item 6 of Joint Summary – Husband's Australian property

20 Item 6 of the Joint Summary concerns a property at Harbour Road, Queensland, Australia, (the “Queensland property”), which is in the Husband’s sole name.

21 The gross value of the Queensland property, which was purchased in 2012 for AUD840,000, was estimated at AUD765,000 as at 15 January 2018. There is an outstanding mortgage on the said property, which the Husband estimates to be more than AUD605,000.

22 Initially, the Husband was willing to have this property sold and the net sale proceeds divided equally with the Wife. However, he subsequently decided to keep this property in Queensland for himself.

23 As the parties agreed that if the Husband is to keep the Queensland property for himself, he has to pay the Wife AUD78,827, I ordered the Husband to pay the Wife this sum for her share of this property.

Item 7 of Joint Summary – Husband’s property in Liverpool

24 Item 7 of the Joint Summary concerns an apartment in Henry Street, Liverpool, United Kingdom, an apartment which is in the Husband’s sole name (the “Liverpool apartment”). The Husband claimed that the Liverpool apartment was purchased by him in 2005 for GBP160,000.

25 In HA1, the Husband proposed (at para 21) that the Liverpool apartment be sold and that the net sales proceeds after paying the outstanding mortgage and expenses of the sale be shared equally between the parties.

26 At the hearing of the ancillary matters, the Husband changed his position and his counsel claimed that the Liverpool property is not a matrimonial asset

as it was purchased before the marriage. The Wife contended that this assertion, which was not made in HA1 or HA2, was not supported by any documentary evidence and was first made in the Joint Summary, which is not the parties' evidence. To be fair to the Husband, he did assert in HA1 (at para 18) that the property was purchased in 2005, which was before the parties' marriage in 2006. However, there was no documentary evidence to support this assertion.

27 As it turned out, there was no need to consider whether or not this property was acquired before the marriage for the simple reason that after taking into account the outstanding mortgage on the property, there was nothing left to be divided between the parties. As such, the parties accepted that this property need not be considered any further for the purpose of division of matrimonial assets.

Item 8 of Joint Summary – Husband's property in Cheshire

28 Item 8 of the Joint Summary relates to a property owned by the Husband in Warrington, Cheshire, United Kingdom (the "Cheshire property").

29 The Husband stated in HA1 (at para 21) that he was prepared to have the Cheshire property sold and the net proceeds of sale after payment of the outstanding mortgage and expenses of the sale divided equally between the parties. He subsequently claimed at the hearing that the Cheshire property was acquired before the marriage and should not be included in the pool of matrimonial assets. The Wife contended that this assertion was not made in HA1 or HA2 and it first surfaced in the Joint Summary, which is not evidence of his claim that this asset was acquired before the marriage. Again, to be fair to the Husband, he did assert in HA1 (at para 18) that the property was purchased for GBP135,000 in 2005 before the parties' marriage although no documentary evidence was adduced to back up this assertion.

30 As with the case of the Liverpool property, it was clear that after taking into account the outstanding mortgage on the property, there was nothing left to be divided between the parties if the property is sold. As such, the parties accepted that there was no need to consider the Cheshire property any further for the purpose of division of matrimonial property.

Item 9 of Joint Summary - Husband's Volkswagen car

31 Item 9 in the Joint Summary concerns a Volkswagen Scirocco bearing number SLE 4130M ("the Volkswagen"), which was purchased for S\$30,000 on 4 June 2018, while the parties were still married. According to the Husband, the money for the car was withdrawn from the parties' joint POSB savings account.

32 Less than two months after the date of the interim judgment, the Volkswagen was sold on 12 April 2019 for S\$15,900. The Wife alleged that the Husband has not accounted for the sale proceeds. The Husband claimed that he has used the proceeds of sale for his living expenses, the children's living expenses and put some of the money in his business ("Source Bulk Food").

33 The Wife claimed that the Husband sold the Volkswagen at an undervalued price and wanted the court to put the purchase price of S\$30,000 into the pool of matrimonial assets. There was no evidence on the market price of the second-hand car that has been used by the Husband for 10 months and as the Wife's allegation that the Volkswagen was sold at an undervalue was not substantiated, I ordered that the resale price of S\$15,900 and not the purchase price of S\$30,000 should be put back into the pool of matrimonial assets.

Item 10 of Joint Summary – Husband’s BMW Coupe

34 Item 10 of the Joint Summary concerns the second vehicle owned by the Husband, a BMW coupe M3 series Coupe (“the BMW”) bearing number SMC 108D.

35 The Wife complained that the Husband had lied that the BMW was his friend’s car. As the Husband did not disclose that he owned this car in HA1, the Wife asked the Husband to provide information on the purchase price of the car, the source of funds for the purchase and the current value of the car. In his reply, the Husband merely said that the car was purchased after the grant of the Interim Judgment on 20 February 2019 and was thus not a matrimonial asset. When pressed further in the Wife’s Second Request for Interrogatories, the Husband responded by saying that he was in the process of obtaining the documents in question. However, he failed to provide the said documents.

36 On 14 February 2020, the Assistant Registrar ordered the Husband to provide the documents sought by the Wife. Pursuant to the court’s directions, the Husband furnished a copy of the BMW’s registration details, which showed that the BMW was purchased on 12 April 2019, less than two months after the date of the interim judgment for S\$174,751. The car was sold ten months later on 12 February 2020 for S\$102,000. The Husband claimed that he took a bank loan to pay for the vehicle.

37 Regrettably, despite the direction of the Assistant Registrar, the Husband did not provide any documentary evidence relating to the source of funds for the purchase of the BMW. Although he claimed to have taken a loan for the purchase of the BMW and to have repaid the loan, he furnished no evidence of the alleged loan. As there was nothing to indicate that the Husband

had in fact obtained a loan for the purchase of the BMW on 12 April 2019, a question arises as to where the funds for the purchase of this car came from.

38 As the BMW was purchased less than two months after the interim judgment was obtained on 20 February 2019, an adverse inference may be drawn from the lack of documentation on the car loan for the purchase of the BMW that the funds required for the purchase of this car came from a source that was not disclosed in the ancillary proceedings. I thus ordered that the resale price of S\$102,000 be added to the pool of matrimonial assets. It may be noted that the Wife alleged that the Husband sold the BMW at an undervalue and that the entire amount paid by the Husband for the car should be added to the pool of matrimonial assets. However, there was no evidence to substantiate the Wife's allegation that the car, which had been used by the Husband for ten months, was sold at an undervalue.

Item 11 of Joint Summary - Husband's Australian insurance policy

39 Item 11 of the Joint Summary concerns the Husband's Australian Super Income Protection Insurance.

40 Both parties agreed that this policy, which has a value of AUD121,046.66 is a matrimonial asset. As such, this amount was added to the pool of matrimonial assets.

Item 12 of Joint Summary – Husband's Microsoft Corporation Employment Stock Purchase Plan

41 The Husband, who worked for Microsoft Operations Pte Ltd from 12 November 2016 to December 2018, accumulated a large number of stocks in the Microsoft Corporation Employment Stock Purchase Plan ("ESPP").

42 The Husband disclosed in HA1 that he had 642,303 of such stocks. Both parties accepted that these stocks are matrimonial assets and I ordered that the value of the stocks as at the agreed date for valuation to be included in the pool of matrimonial assets.

Item 13 of Joint Summary – Annual Microsoft Stock Awards

43 Item 13 of the Joint Summary relates to the Husband’s Annual Microsoft Stock and Leadership Awards (“Annual Microsoft Stocks”). Whether there are such stocks in the Husband’s hands is a bone of contention in these proceedings.

44 The Annual Microsoft Stocks were not disclosed by the Husband in HA1. According to him, he did not disclose these stocks because he does not own any such stocks. However, the Wife contended that when the Husband started work at Microsoft, he was granted stock awards, as indicated at paragraph 6 of his employment contract dated 1 October 2016, which was disclosed in HA1. The Wife also discovered documents indicating that the Husband was eligible for stock awards estimated at USD177,000 per year from Financial Year 2018. She pointed out that as the Husband was employed by Microsoft until March 2019, he would have been granted the said stock awards for Financial Year 2018. This was highlighted by the Wife in WA2 (at para 18)]. Notably, the Husband did not file an affidavit to reply to this assertion. Instead, he claimed for the first time in the Joint Summary that the existence of these stocks is based on the Wife’s conjectures.

45 The Wife pointed out that the Husband could have written to Microsoft to confirm whether he held the stocks in question and he had more than a year to do this. However, he chose not to write to Microsoft and he remained silent in the face of her allegations and the documents produced by her. She thus

invited the court to draw an adverse inference that the stocks exist and to add USD177,000 to the pool of matrimonial assets.

46 I drew an adverse inference that the Husband held the Annual Microsoft Stocks and ordered that their value be added to the pool of matrimonial assets

Item 14 of Joint Summary – Husband’s shares in Salesforce

47 Item 14 of the Joint Summary relates to the Husband’s Salesforce stocks. Whether or not the Husband holds any of these stocks was a hotly contested issue.

48 The Husband was employed by Salesforce Japan before he left this company for a position at Microsoft. While at Salesforce, he was eligible for the award of Salesforce stocks. The Salesforce stocks were not disclosed in HA1 and the exact type of the Husband’s stocks in Salesforce is not known.

49 In WA1, the Wife exhibited a note in the Husband’s handwriting that showed that the assets held by him in 2012-2014 included Salesforce stocks that were already vested in him. Notably, she also produced email correspondence between the Husband and Microsoft when he was negotiating his pay with his new employers that indicated that he was eligible for more Salesforce stocks.

50 In an email dated 1 September 2016, Microsoft asked the Husband to clarify the vesting schedule for his Salesforce Stocks and explain how USD1.1m worth of such stocks will vest in him over the next few years. In his reply in an email on 2 September 2016, the Husband provided Microsoft with a vesting schedule which showed that by February 2020, the full value of USD1,116,255 worth of Salesforce stocks would have been vested in him. The Husband also

stated in the said email to Microsoft that he was still working on the “bonus amounts” and that “it may take a day or so to find the details”.

51 As the Husband did not disclose the Salesforce stocks in HA1, the Wife asked him in her first Request for Discovery dated 15 August 2019 to provide stock statements showing the balance and transactions for the Salesforce stocks from January 2014 to date.

52 The Husband responded that he would not provide the requested statements because these stocks were the same as those listed in the E*Trade Financial Employee Stock Plan 69456002 (“E*Trade stocks”), which were sold in April 2017 for USD1,094,539.18. He added that the proceeds of the sale of these stocks were deposited into the parties’ joint Commonwealth Bank Foreign Currency Account and that the Wife had already benefited from the sale of the Salesforce stocks.

53 The Wife submitted that the Husband’s contention that the Salesforce stocks are the same as the E*Trade stocks sold in 2017 that were sold for USD1,094,539.18 in 2017 is untrue for a number of reasons. To begin with, she pointed out that in 2017, the cumulative value of the Salesforce stocks already vested in the Husband was only around USD177,485 – USD321,640. According to the Husband’s own email dated 2 September 2016 to Microsoft, the Salesforce stocks were to be vested over four years from 2016 to 2020 and in 2017, the sale of the Salesforce stocks would not have yielded the amount received for the sale of the E*Trade stocks. This shows that the E*Trade Stocks, which were sold for more than USD1m in April 2017, were separate stocks and could not have been the Salesforce stocks which she was referring to.

54 The Husband undermined his position further by asserting in the Joint Summary that he had asked his former employers, Salesforce, to honour his right to the Salesforce stocks but this was not done. This assertion was not referred to in either of the Husband's affidavits on the ancillary matters and the Joint Summary is not evidence as it merely contains a summary of the parties' positions by their counsel. More importantly, the Husband's claim that Salesforce did not honour their obligations in relation to the Salesforce stocks that should have been awarded to him contradicts his earlier assertion that these stocks are the same stocks as the E*trade Financial Employee Stock Plan 69456602, which were allegedly sold in April 2017 for more than USD1m. The Wife rightly pointed out that the Husband cannot argue that Salesforce had not honoured their commitment to him in relation to his Salesforce stocks and also contend that Salesforce stocks claimed by her as being part of the matrimonial assets were the same E*Trade stocks sold in 2017 for more than USD1m. She said that the Husband was in fact asserting that in 2017, he had sold Salesforce stocks that he now claimed that he did not own.

55 Although the above-mentioned assertions of the Wife in relation to the Salesforce stocks and E*Trade stocks were made in WA2, the Husband chose not to file an affidavit to address the Wife's assertions. The Husband has himself to blame for not making full disclosure of his Salesforce shares, for failing to respond to the Wife's allegations in his affidavits and for taking inconsistent positions on the existence of these shares. In the circumstances, I drew an adverse inference against him and held that the Salesforce stocks should be included in the pool of matrimonial assets. As the exact type and quantity of these stocks are unknown, I order that the cumulative value of the stocks (as valued at 21 September 2020) should be added to the pool of matrimonial assets.

Item 15 of Joint Summary – Husband’s IBM shares

56 Item 15 of the Joint Summary concerns the Husband’s shares in the IBM Computershare Investors Service Programme (the “ISP shares”). In the context of other assets to be divided, the value of these shares is not significant.

57 The Wife placed the value of the ISP shares at around USD3,714.25 as at 19 February 2019. She contended that the Husband must have sold the ISP shares and has failed to account for the sale proceeds. According to the Husband, the shares were not sold and were transferred to the New York State Comptroller of Unclaimed Funds Account. He placed the value of the shares at USD3,287.12 as at 30 July 2020.

58 The parties accepted that the ISP shares are part of the matrimonial assets. As such, I ordered that their value as at the agreed date for valuation of the same is to be included in the pool of matrimonial assets.

Item 16 of Joint Summary – Husband’s other IBM stocks

59 Item 16 of the Joint Summary relates to other IBM stocks in the Husband’s name (“other IBM stocks”), which were valued at USD15,540.41 as at June 2014.

60 The Husband’s position was that the other IBM stocks were sold in 2014 and the proceeds of sale were deposited into the parties’ joint bank account with the Wife’s knowledge. However, the Wife, who denies any knowledge of the depositing of the cheque into their joint account, exhibited documents from the New York State Office of the State Comptroller which showed that a small quantity of the shares was sold for USD72.25 in 2001 and a larger quantity of the same was sold in 2014 for USD15,468.16. The net sale proceeds for the two

sales totalled USD15,540.41 and she wanted the Husband to account for the sale proceeds.

61 The sale of the shares took place many years ago and the money would have been spent rather than stashed away to avoid being added to the pool of matrimonial assets as the question of divorce did not arise in 2011 and 2014. I thus held that the sale proceeds of the other IBM stocks should not be added to the pool of matrimonial assets.

Item 17 of Joint Summary – Husband’s Commonwealth Bank account

62 Item 17 of the Joint Summary relates to the Husband’s Commonwealth Bank Smart Access account, which was disclosed in HA1. There is a large sum of AUD691,502.82 in this account as at 28 February 2019.

63 The Husband claimed that S\$604,596.77 from this account has since been loaned to his company, Honey Jean Pte Ltd. However, this loan was not mentioned in HA1 or HA2 and such an assertion was made for the first time in the Joint Summary without any documentary evidence to support the Husband’s claim. As both parties accepted that the Husband’s Commonwealth Bank Smart Access account is a matrimonial asset, I ordered that the sum of AUD691,502.82, which was in the bank account on the date of the interim judgment be added to the pool of matrimonial assets.

Item 18 of Joint Summary – Husband’s DBS Multiplier account

64 Item 18 of the Joint Summary deals with a DBS Multiplier account in the Husband’s sole name, which was disclosed in HA1. It was accepted that this account, which has a balance of S\$120,740.01, is a matrimonial asset. In view

of this, the balance in this account is to be added to the pool of matrimonial assets.

Item 19 of Joint Summary – Husband’s National Westminster account

65 Item 19 of the Joint Summary concerns the Husband’s National Westminster Bank. A bank statement disclosed by the Husband in HA1 showed that there was a sum of GBP3,405.34 in this account on 30 March 2019.

66 As the parties accepted that this account with the National Westminster Bank is a matrimonial asset, the balance in this account is to be added to the pool of matrimonial assets.

Item 20 of Joint Summary – Husband’s Japanese bank account

67 Item 20 of the Joint Summary deals with a comparatively smaller amount of money in SMBC (Prestia) Trust Bank, previously referred to as Citibank Japan. A transaction advice from the said bank, showed that there was a balance of JPY404,076 or around S\$5,271.95 on 19 November 2016 in the account, which was, according to the Wife, used as their “daily joint account” while they were living in Japan.

68 In her first Request for Discovery dated 15 August 2019, the Wife asked the Husband to provide statements in relation to this Japanese account. He did not respond to this request or to a second Request for Discovery dated 13 January 2020 for the said statements.

69 At a Case Conference on 14 February 2020, the Husband was ordered by the Assistant Registrar to provide more up-to-date bank statements and to make a formal request to the bank for the statements by 21 February 2020.

70 The Husband claimed without showing any documentary evidence that he had taken steps to procure the statements by calling the bank's officers but reached a dead end as he could not speak to anybody on the phone who could speak fluent English. He did not show that he has made a formal request to the bank to forward to him the relevant bank statements despite having been ordered by the court to do so.

71 I thus drew an adverse inference against the Husband and ordered that the sum of JPY404,076 in the said Japanese bank account be added to the pool of matrimonial assets.

Item 21 of Joint Summary – The Husband's ING bank account

72 Item 21 of the Joint Summary concerns the Husband's ING bank account, which has a balance of only AUD6.75 on 31 March 2019. The parties accepted that this small amount is be added to the pool of matrimonial assets.

Item 22 of Joint Summary – The Husband's CPF account

73 Item 22 of the Joint Summary relates to the Husband's Central Provident Fund account, which has a balance of S\$328,672.12 on 23 July 2019. This sum comprises S\$177,756.97 in the Ordinary account, S\$55,042.76 in the Medisave account and S\$95,872.39 in the Special account.

74 The parties accepted that the amount in the Husband's CPF account should be included in the pool of matrimonial assets.

Item 23 of Joint Summary – The Husband’s Cap Gemini (UK) pension plan

75 Item 23 of the Joint Summary deals with the Husband’s Cap Gemini (UK) Pension Plan, which is worth GBP7,711.42 (“the Cap Gemini Plan”). The Husband did not disclose in HA1 that he had such a pension plan. As such, in her first Request for Interrogatories dated 15 August 2019, the Wife asked the Husband to provide the pension plan statements.

76 The Husband’s lawyers responded in a letter dated 18 November 2019 that the Cap Gemini Plan had been cashed out for GPB1,500 and that their client does not recall the whereabouts of the proceeds received. However, he did not furnish any documentary evidence of the cashing out or make any attempt to acquire such evidence by writing to the Pension Fund.

77 When the Assistant Registrar dealt with the Husband’s non-disclosures at a Case Conference on 14 February 2020, the latter belatedly agreed to make a formal request for documents relating to the pension plan, including those concerning the closure of the account. The documents produced by the Husband were not documents relating to the closing of the account. In fact, they showed that there were still funds in the said account. The cash values indicated were GBP3,374.88 with Equitable Life and GBP2,836.54 under a protected rights fund.

78 Although the Husband did not raise in earlier proceedings or in HA1 or HA2 that the Cap Gemini Plan was a pre-marital asset that should not be added to the pool of matrimonial assets, the Husband’s counsel raised this matter for the first time in the Joint Summary, which, as stated before, is not the parties’ evidence on affidavit.

79 The Husband has himself to blame for not having been open about this asset, for failing to raise the issue of a pre-marital asset earlier on and for taking the position all along that the Cap Gemini plan had been cashed out. I thus ordered that the amounts in the Cap Gemini Pension Plan to be added to the pool of matrimonial assets.

Item 24 of Joint Summary– Husband’s Allied Dunbar (Zurich Assurance) pension plan

80 Item 24 of the Joint Summary concerns the Husband’s Allied Dunbar (Zurich Assurance) pension plan bearing the number P31322-01J-PB-PO1 (“the Allied pension plan”), which was not disclosed by him in HA1. In WA1, the Wife exhibited documents which showed that this pension plan has a transfer value of around GBP111,000 in January 2020.

81 In her first Request for Discovery stated 15 August 2019, the Wife requested the Husband to provide the Allied pension plan statements. The Husband’s lawyers replied on 18 November 2019 that the pension plan had been cashed out and that their client could not recall the whereabouts of the proceeds of the pension plan received by him.

82 When the Assistant Registrar dealt with the Husband’s non-disclosures during a Case Conference on 14 February 2020, the Husband finally agreed to make a formal request for documents relating to the Allied pension plan. However, the correspondence between the Husband and Allied Dunbar (Zurich Insurance) provided information regarding another policy that had nothing to do with the Allied pension plan. Instead, the documents concerned another policy - an Allied Dunbar/Zurich Assurance Lifestyle Plan (bearing registration number 000654-11S-DHF) in the joint names of both parties and without any cash value.

83 In WA2, the Wife highlighted in para 22 that the Husband had, despite having been ordered to produce the documents relating to the Allied pension plan, failed to furnish the required documents. The Husband did not respond to this allegation by filing an affidavit.

84 In the Joint Statement, the Husband's counsel pointed out that this pension plan is a pre-marital asset and is, as such, not a matrimonial property. However, the Wife pointed out that this assertion was not made by the Husband in HA1 or HA2. In view of this, the Wife contended that the assertion in the Joint Statement that this is a pre-marital asset should be disregarded. She urged the court to draw an adverse inference against the Husband for his failure to make full and frank disclosure of the said pension plan. The Husband has himself to blame for not failing to make full and frank disclosure of the Allied pension plan and raising the issue of a pre-marital asset without any affidavit evidence. In any case, the Husband had also claimed that the Allied pension plan is actually a life policy in respect of which he has continued to pay premiums every month. If this is so, then the fact that premiums were paid during the marriage must be noted. As such, I included this pension plan in the matrimonial pool of assets.

Item 25 of Joint Summary – Husband's SAP (UK) Ltd Group pension plan

85 Item 25 of the Joint Summary deals with the Husband's SAP(UK) Ltd Group Personal Pension Plan ("the SAP Pension"), which was not disclosed by him in HA1 or HA2. It was only upon the Wife's first Request for Discovery dated 15 August 2019 that he provided a copy of this pension plan which has a value of GBP60,078.22.

86 At the hearing of the ancillary matters, the Husband's counsel asserted that the SAP Pension was purchased before the marriage and should not be included in the pool of matrimonial assets. However, this assertion was not made in either HA1 or HA2 and was made for the first time in the Joint Summary without any documentary evidence. The Wife's counsel pointed out that this submission should be disregarded.

87 If the Husband wanted to contend that the SAP Pension was not a matrimonial asset, he should have done so earlier and stated this in the affidavits filed by him for the hearing of the ancillary matters. I thus ordered that the SAP Pension be included in the pool of matrimonial assets.

Item 26 of Joint Summary - Luminor watch

88 The subject matter of item 26 of the Joint Summary is a Luminor watch. The Wife contended that the Husband owns a Luminor watch that should be included in the pool of matrimonial assets. She exhibited a photograph of a Luminor watch and claimed that the Husband had said that he purchased the watch in November 2017. She also exhibited an online price quote of S\$30,900 for the watch.

89 The Husband denies owning the said watch and said that the Wife's assertion that he owns such a watch is based on her own conjectures. He pointed out that there is no evidence that he owns such a watch and that he does not appear in the photograph of the watch submitted by the Wife.

90 I held that it was not established that the Husband owns the watch in question and the value of the watch is not to be included in the pool of matrimonial assets.

Items 27-30 of Joint Summary – Husband’s art collection

91 Items 27, 28, 29 and 30 of the Joint Summary dealt with a few art works in the Husband’s possession.

92 The Wife alleged that the art works included two works by Anya Brock, four works by David Bromley and an art work by Ewa Bathelier. According to her, the Anya Brock’s art works are worth AUD7,600 while David Bromley’s works are worth AUD45,000 and the work by Ewa Bathelier is worth S\$15,000. There were also other artwork which the Wife claims is worth at least S\$550. In contrast, the Husband believes that the Anya Brock works have no value. He also said that the David Bromley artworks are imitations purchased for S\$280 in December 2016. As for the Ewa Bathelier work, he said that this was also an imitation piece purchased from a painting wholesaler for only S\$150. The Husband claims that all these pieces are of “no value any longer”.

93 The Wife complained that the Husband’s claim that the art works in question are of no value is not supported by any documentary evidence but she also did not furnish adequate evidence of the value of the said works.

94 As there was no proper evidence of the value of the art works by either party, it was not possible for the court to assess the value of these works for the purpose of determining the amount to be put into the matrimonial pool of assets.

Items 31, 32 and 33 of Joint Summary – Sums allegedly dissipated by the Husband in 2017 and 2018

95 Items 31, 32 and 33 of the Joint Summary relate to sums allegedly dissipated by the Husband. The Wife alleged that the Husband dissipated their matrimonial assets by withdrawing the following sums of money from their joint POSB account on the following dates:

- (a) S\$4,717.31 on 22 February 2017;
- (b) S\$15,000 on 2 November 2017;
- (c) S\$5,000 on 7 September 2018; and
- (d) S\$47,000 from March 2017 to October 2017.

96 The Wife also complained that the Husband dissipated their matrimonial assets when he made the following withdrawals from their Commonwealth Joint USD foreign currency account:

- (a) USD35,000 on 20 November 2017;
- (b) USD35,000 on 21 November 2017;
- (c) USD24,500 on 22 November 2017.
- (d) USD39,250 on 5 March 2018.

97 The Husband insisted that he had spent the money allegedly dissipated by him solely on the family and himself. He claims that the sums listed in (a), (b) and (c) of the above paragraph were withdrawn for payment of Australian income tax while the parties were living in Japan and that the Wife knew about the withdrawals. As for the sum in item (d) of the above paragraph, he claimed that the money was withdrawn to pay for income tax in Singapore while the parties were living in Japan.

98 The Husband also alleged that while the Wife complained about his expenditure, she also did what she accused him of doing when she withdrew S\$90,000.00 from their joint POSB savings account on 2 October 2018 without consulting him.

99 Often enough, parties complain about withdrawals of funds by the other party during the marriage when the division of their matrimonial assets is being considered. It ought to be borne in mind that as a general rule, during a marriage, parties have no expectation that they will have to explain precise items of their expenditure and must produce balance sheets in relation to their expenditure.

100 In *TNL v TNK and another appeal and another matter* [2017] 1 SLR 609 (“*TNL v TNK*”), the Court of Appeal considered whether the sums of S\$43,848.20 and S\$34,494.50 that the wife obtained from the surrender of two of her insurance policies a few years before the commencement of divorce proceedings had to be returned to the pool of matrimonial assets. The wife’s evidence as to what she did with the insurance proceeds was unsatisfactory and the judge found the wife’s explanations on this matter unconvincing. Despite this, it was held that the amount in question need not be added to the pool of matrimonial assets as the policies were surrendered several years before the commencement of divorce proceedings and the funds were likely to have been amalgamated with other funds and dealt with accordingly in the ordinary course of the family’s life. There was no evidence that divorce proceedings were even contemplated when the insurance proceeds were received and there would have been no reason for the wife to dissipate the funds to avoid sharing them with the Husband. It was thus held that there was no reason to order the wife to return the insurance proceeds to the asset pool.

101 It is thus clear that while the court may order a spouse to account for money dissipated if it is shown that this was done in contemplation of divorce proceedings at the material time, a spouse should not be asked to account for money spent in the ordinary course of family life. In the present case, although there were already strains in the relationship in 2017 and 2018 and the Wife claims that the parties were effectively separated, there was no evidence that the

parties were withdrawing sums from their accounts to ensure that they were not included in the pool of matrimonial assets. In fact, the Husband continued to deposit his salary into a joint account operated by both parties. The Husband thus contended that it will not be just and equitable for him to return the alleged dissipated sums of monies as these monies were withdrawn for living expenses, family expenses and payment of income tax to the Inland Revenue Department.

102 I accept that it will not be just and equitable for the Husband to be required to return the allegedly dissipated sums to the matrimonial pool of assets. As such, the amounts in question were not added to the pool of matrimonial assets.

Item 34 of Joint Summary –Husband’s investment in Source Food franchise

103 Item 34 of the Joint Summary concerns the Husband’s investment in his business as a franchisee of Source Bulk Foods, Australia’s largest specialised bulk food retailers, which prides itself as a zero-waste health food company and specialises in organic food.

104 In HA1, the Husband claimed to be unemployed and did not disclose that he was running a business as a franchisee. Source Bulk Foods supplies its franchisees with bulk food pantry products, including nuts, grains, seeds, dried fruit, chocolates, flours, pasta, cereals, raw honey, muesli, rice and oils.

105 The National Franchise Agreement with Source Bulk Foods in relation to business in Singapore was made with Honey Jean Pte Ltd (“Honey Jean”), which was incorporated on 9 November 2018 while the parties were still married. The Husband is the sole director and the sole shareholder of Honey Jean, He is also the guarantor in relation to Honey Jean’s franchise agreement

with Source Foods, which was dated 2 March 2018. The Husband paid S\$100,000 for the National Master Franchise Fee.

106 Schedule 11 of the National Franchise Agreement requires the franchisee to maintain a minimum of two stores at the end of the first year of operation, three stores at the end of the second year of operation, 4 stores at the end of the third year of operation, and a minimum of 9 stores by the end of the fourth year of operations. To date, three stores have opened at Cluny Court in Bukit Timah Road, Great World City in Kim Seng Promenade and Change Alley Mall in Raffles Place.

107 The *Straits Times* reported that the Husband is also the master franchisee for South East Asia and based on this report, the Wife asked that he produce the South East Asia Master Franchise Agreement. To date, the Agreement has not been produced.

108 The Husband contended that the only store operated by him is the one at Cluny Court and that the store located at Great World City is a franchise owned by another company called Nourished Co. He added that his company only receives 6% of the monthly net sales in this store. This amounts to an average of S\$5,000 to S\$6,000 per month, which is used to cover part of the operational cost of running the company.

109 By consent, on 14 February 2020, the Assistant Registrar ordered the Husband to provide the financial statements and monthly bank accounts of Honey Jean from 9 November 2018 onwards. However, the Husband only furnished the financial statements of Honey Jean from December 2018 to February 2019 as well as the company's Balance Sheet at February 2020. It appears from the company's balance sheet that apart from the franchise fee, the

Husband has made a further investment of S\$604,597.77, which is listed as a director's loan in the balance sheet. As for the outstanding bank accounts of the company, the Husband refused to produce them on the ground that he did not wish to disclose his employee's confidential information which would be reflected in the said bank statements.

110 The Husband accepted that Honey Jean is a matrimonial asset but he contended that it should not be included in the pool of matrimonial assets even though it was incorporated in November 2018 before the interim judgment because the value of the company increased only because of work done by him after the date of the interim judgment.

111 As has been mentioned earlier, the parties agreed at the hearing on 21 September 2020 that apart for their bank accounts, the value of all other matrimonial assets shall be as at 21 September 2020. As Honey Jean is a matrimonial asset, the Husband cannot now say that this matrimonial asset should have a different valuation date. If, as the Husband contends, the company has not been doing well because of the COVID-19 pandemic, this will be reflected in the valuation of the company. As such, the company should be valued on the agreed date with the costs of valuation to be borne by both parties. Following the valuation, the Wife is to be paid half the value of the company.

Item 35 of Joint Summary – Husband's road bikes

112 Item 35 of the Joint Summary concerns the Husband's road bikes. According to the Husband, he owns two road bikes, a Parkee road bike worth S\$6,000 and a Cervelo road bike worth S\$2,000. Both the bikes were purchased with funds from the parties' joint accounts. I thus ordered that the value of the two bikes be included in the pool of matrimonial assets.

Item 36 of Joint Summary - 40 feet container in Australia

113 Item 36 of the Joint Summary relates to the value of the contents of a 40- ft container which is presently being stored in Australia. This dispute about the container, which contains, among other things, household items, shows the degree of acrimony in these divorce proceedings.

114 The Wife asked the Husband to provide the full list and details of the items in the container that have been sold and an account of the sale proceeds, if any. She claimed that the contents of the container are worth AUD87,315 and that as the Husband has not given an account of what has been sold, it should be assumed that none of the items in the container have been sold. As such, she contended that the sum AUD87,315 should be added to the list of matrimonial assets.

115 The Husband retorted that the Wife kept the packing list and that he has no access to the said list. He wanted to have the container, for which storage charges continue to be incurred at the rate of AUD1,140 for three months, to be returned to Singapore. According to the Husband, no action has been taken on this because the Wife had not given him a reply in relation to this proposal. He also contended that the contents of the container should not be included in the pool of matrimonial assets as it is questionable how the Wife obtained the values of the items allegedly inside the container.

116 Without sufficient evidence on the value of the contents of the container in Australia, it was not possible to decide whether the contents are part of the pool of matrimonial assets and if so, their value.

117 At the hearing of the ancillary matters, the parties sensibly agreed to sort out the problems relating to the contents of the container in Australia by

themselves. That being the case, there was no need for the court to make any order with respect to the contents of the said container.

Item 37 - British Club membership

118 The Husband is a member of the British Club. Apparently, the value of the membership ranges from S\$7,000 to S\$10,000.

119 The Wife submitted that this membership benefited the family and must be regarded as an unquantifiable matrimonial asset, which should be sold and the proceeds of sale divided. The Husband agreed to the proposed sale of his club membership and to the division of the sale proceeds.

120 I thus ordered that the Husband's membership of this Club be sold and the sale proceeds divided equally between the parties.

Item 38 - The Wife's car

121 Item 38 of the Joint Summary relates to a Toyota Harrier vehicle bearing number SLX9402X, which was purchased with money from their joint account. The estimated value of the motor vehicle in June 2019 was S\$110,000. This sum was added to the pool of matrimonial properties.

Items 39, 40, 41, 42 and 43 – Wife's bank accounts

122 Items 39, 40, 41, 42 and 43 of the Joint Statement concern a number of bank accounts in the Wife's name. The accounts are as follows:

- (a) DBS eMulti Currency Autosave Account with a balance of S\$16,908.94 as at 8 July 2019;
- (b) Commonwealth Bank Netbank Saver, which has no funds in it;

- (c) Commonwealth Bank Foreign Currency Account with a balance of AUD 35,788.40 as at 30 April 2019;
- (d) Commonwealth Bank Foreign Currency Account with a balance of USD 480,367.53 as at 30 May 2019; and
- (e) Barclays Bank account with a balance of GBP 589.78 as at 5 August 2019.

123 The parties agreed that the balances in the above-mentioned accounts in the Wife's name should be added to the pool of matrimonial assets.

Item 44 – Wife's watch

124 Item 44 of the Joint Summary deals with a watch owned by the Wife, which is valued at S\$7,600. The value of this watch was added to the pool of matrimonial assets

Maintenance for the Wife

125 Section 114(1) of the Women's Charter, which concerns the payment of maintenance for a wife or former wife, provides as follows:

114. – (1) In determining the amount of any maintenance to be paid by a man to his wife or former wife, or by a woman to her incapacitated husband or incapacitated former husband, the court shall have regard to all the circumstances of the case including the following matters:

- (a) the income, earning capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future;
- (b) the financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future;
- (c) the standard of living enjoyed by the family before the breakdown of the marriage;

- (d) the age of each party to the marriage and the duration of the marriage;
- (e) any physical or mental disability of either of the parties to the marriage;
- (f) the contributions made by each of the parties to the marriage to the welfare of the family, including any contribution made by looking after the home or caring for the family; and
- (g) in the case of proceedings for divorce or nullity of marriage, the value to either of the parties to the marriage of any benefit (for example, a pension) which, by reason of the dissolution or annulment of the marriage that party will lose the chance of acquiring.

126 Section 114(2) of the Women’s Charter further provides that in exercising its powers under this section, the court shall endeavour to place the parties, so far as is practicable and, having regard to their conduct, just to do so, in the financial position in which they would have been if the marriage had not broken down and each had properly discharged his or her financial obligations and responsibilities towards the other.

127 In *Foo Ah Yan v Chiam Heng Chow* [2012] 2 SLR 506, Andrew Phang JA, who delivered the judgment of the Court of Appeal explained (at [22]) that an order for maintenance of a former spouse “serves the far more ambitious objective of giving her a fair share of the surplus wealth that had been acquired by the spouses during the subsistence of the marriage”. Unsurprisingly, an order for maintenance for a former spouse wife has been regarded as supplementary to an order to divide the matrimonial assets of the parties as it is intended to take care of any residual inequality in their financial resources after their matrimonial assets have been divided (see *ATE v ATD and another appeal* [2016] SGCA 2 at [33]).

128 In *TNL v TNK*, the Court of Appeal stated (at [62]) that ultimately, the award of maintenance is a multi-factorial inquiry which, pursuant to s 114(1) of

the Women's Charter, requires the court to have regard to all the circumstances of the case including the matters listed in ss 114(1)(a) to 114(1)(g) of the said statute.

129 In the present case, the Wife's case is that the Husband should pay her S\$7,740 per month as maintenance. She also wanted back-dated maintenance of S\$9,500 per month between April 2019 to January 2020 and S\$7,740 per month between February 2020 to September 2020. In contrast, the Husband contended that no maintenance should be paid to the Wife as their matrimonial assets have been divided equally.

130 That a wife who has received a sufficient and valuable share of the matrimonial assets is a relevant factor in determining whether maintenance for the wife should be ordered and, if so, how much maintenance should be paid is quite clear. A case can certainly be made for not granting the Wife any maintenance. However, the Husband's failure to fully disclose many matters, including his stock of shares, pension schemes and insurance policies and car loan for the BMW and that he has started a business as the Singapore and regional franchisee of Source Bulk Foods, suggests that he may not have disclosed all his assets. Taking all circumstances into account, I ordered that the Wife be paid a monthly maintenance of S\$1,000 per month. Her claim for back-dated maintenance is dismissed.

Maintenance for the children

131 Section 68 of the Women's Charter, which makes it clear that it is the duty of parents to maintain their children, provides:

Except where an agreement or order of court otherwise provides, it shall be the duty of a parent to maintain or contribute to the maintenance of his or her children, whether they are in his or her custody or the custody of any other

person, and whether they are legitimate or illegitimate, either by providing them with such accommodation, clothing, food and education as may be reasonable having regard to his or her means and station in life or by paying the cost thereof.

132 Two matters will be considered. The first concerns the determination of the monthly expenses of the two children. The second concerns the proportion of the said expenses that is to be borne by each parent.

133 The parties had different views on the children's monthly expenses. The Wife claimed that almost S\$22,000 per month is required for the maintenance of the two children. She claimed that the elder child required S\$11,164 per month while the younger child required S\$10,722 per month. She also wanted the maintenance for the children to be back-dated to April 2019, when the Husband stopped paying for their maintenance.

134 The Husband thought that the Wife's estimate of the children's monthly expenses was too high. He submitted that the monthly expenses for the elder and younger child should only be S\$8,049 and S\$7,373 respectively.

135 The parties' positions on the elder child's share of household expenses and his own expenditure are listed below:

ITEM	HUSBAND	WIFE
(a) <u>Elder Child's 1/3 share of household expenses</u>		
Rent of house	2,100.00	2,100.00
Stamp Duty on rent	8.39	8.39
Groceries	500.00	833.33
Electricity/Water	100.00	216.67

Bottled Water	0.00	76.67
SingTel	0.00	66.77
Air-con	27.78	27.78
Electric gate service	3.47	3.47
Pest control	0.00	3.47
Cable TV	0.00	14.17
Netflix	0.00	3.33
Skype Credit etc	0.00	10.00
Carpet cleaning	0.00	24.93
Mattress/sofa cleaning	0.00	17.95
Curtain cleaning	0.00	2.78
Car insurance	38.89	60.08
Road Tax	33.61	33.61
Toyota mileage maintenance	0.00	59.21
Yearly car service	36.67	36.67
LTA inspection	0.00	1.67
Petrol	50.00	100.00
Parking and tolls	50.00	66.67
Cat	0.00	66.67
British Club Subscription	0.00	116.67
Bottled gas	8.33	8.33
Helper and government Levy	333.33	350.00

Helper's birthday, Christmas bonus, overtime	0.00	20.83
Helper's agency renewal	0.00	16.91
Helper's home leave papers	0.00	3.20
Home contents insurance	8.99	8.99
Travel insurance	0.00	29.42
Wines and spirits	0.00	80.00
Government Helper's Medical	0.00	2.08
Helper's home leave flight	0.00	6.95
Helper's bus fare for marketing	0.00	16.67
Flights and holidays	0.00	277.78
Miscellaneous stationery supplies etc	0.00	100.00
<i>(b) Elder child's personal expenses</i>		
School fees	3,586.00	3,586.00
Elevate education	83.33	83.33
Maths tuition	433.34	433.34
Outdoor education camp	79.17	79.17
CCA activities	16.67	50.00
Personal training	0.00	83.33
School uniforms	41.67	41.67
School lunch	0.00	200.00

Gluten-free food	0.00	150.00
Haircut	25.00	25.00
MRT card	25.00	50.00
Taxi fares	100.00	200.00
Allowance	100.00	200.00
Health insurance	0.00	390.71
Dental	0.00	46.25
Consultation, vaccinations, x-rays	0.00	162.97
Dermatologist	0.00	25.41
Gifts for birthday parties	33.33	100.00
Birthday party allowance	41.67	83.34
Vitamin supplements	0.00	135.80
Clothes	100.00	150.00
Phone bill	85.00	85.00
X-box game pass	0.00	20.00
Youth Saver Account set up in 2013	0.00	100.00
	S\$8,049.64	S\$11,164.96

136 The expenses of the younger child are broadly similar to that of the elder child, with big items of expenditure such as school fees (around S\$3,500), rental (S\$2,100), groceries (S\$833.33), maid's salary (S\$700) and medical insurance and consultations similar to the amounts claimed for the elder child.

137 The main differences between the figures submitted by the Husband and Wife for the monthly maintenance of the children concern health insurance and other medical and dental costs, which amount to around S\$1,250 for both children and annual holidays for the children, which comes up to around S\$550 per month. As for health insurance and other medical and dental costs, the Husband refused to pay for these expenses on the ground that the children are covered by his health insurance policy. The Wife insisted that the children are no longer covered by any insurance plan after the Husband ceased to be employed by Microsoft. Although the Husband claimed that the children are covered by his insurance arrangements, he did not produce any document to prove that this is the case. In the absence of evidence on the existence and scope of the Husband's alleged insurance cover, I was inclined to accept the Wife's figures for these expenses. As for the annual holiday for the children, considering the lifestyle that the family had before the divorce, the children ought to be given their annual holiday.

138 While the figures furnished by the Wife for the children's expenses may appear to be high, it must be borne in mind that this is so because the monthly school fees for the children amount to around S\$7,000 while the share of the children of the monthly rental of their house is S\$4,200 and their medical insurance and medical cum dental costs total around S\$1,250 per month. Groceries for the children amount to S\$1,666, according to the Wife and S\$1,000 according to the Husband while the share of the children of the cost of having a maid is more than S\$700 per month and the cost of electricity and water is around S\$430 per month. The children require tuition costing around S\$800 per month and the cost of their extra-curricular activities at their schools, including outdoor education camps, CCA activity fees, elevate education and personal training as well as their school uniforms amount to around S\$480 per month. Car expenses attributable to the children, which include road tax,

insurance, petrol, car maintenance, LTA inspection, parking and toll fees come up to around S\$715 per month. As for annual holidays for the children, these cost around S\$6,600 per year or around S\$550 per month for both the children. The expenses referred to in this paragraph alone amount to a staggering S\$17,000.

139 Apart from the expenses referred to in the above paragraph, the Husband has refused to pay for the cleaning of carpets, curtains, mattresses and beds, fogging operations in the garden of the house and bottled water for the children. There is no reason why these expenses should be excluded. Similarly, there is no reason why the Husband should argue that the elder boy, to whom the Wife has allocated S\$200 per month for school lunches, should receive no allowance for such lunches merely because he can bring a packed lunch to school or that the children should not have a home telephone line costing them around S\$122 per month merely because they have handphones. Furthermore, the children should not lose the benefit of their Youth Saver accounts, which were set up in 2013 and for which S\$200 is required each month for the accounts. If all these expenses and other expenses are taken into account, the maintenance of the children will cost much more than what the Husband estimated to be their monthly expenses.

140 That said, I find that the Wife's claim for certain items to be unsupportable. For example, the Wife claims S\$150 a month for gluten-free food for the elder child when he is not gluten intolerant. She has also claimed S\$400 for taxi fares for the children, which is on the high side and could be halved. Another questionable expense relates to wine and spirits, for which the Wife has claimed S\$80 for the younger child, who is only 13 years old. Furthermore, as the British Club membership is to be sold, the children's share of the expenses in connection with this club need not be taken into account.

141 As for how much each party should pay for the maintenance of the children, it is quite clear that while parents are equally responsible for providing for their children, the amount that each parent has to pay for the maintenance of their children depends on the circumstances of each case. In the case at hand, the Husband asserted that the Wife should pay equally for the maintenance of the children. However, considering that the Husband has not been co-operative in disclosing his assets, has not complied with court orders on the disclosure of his assets and has even claimed to be unemployed when he had started a business as a franchisee of Source Foods, a question arises as to whether he has other assets not disclosed to the court. In the circumstances, notwithstanding the equal division of the matrimonial assets, I found that the Husband should bear a greater share of the monthly expenses of the children. I thus ordered him to pay S\$15,450 per month for the maintenance of both children, The Wife has to pay the remaining monthly expenses incurred by the children.

142 As for the Wife's claim for back-dated maintenance from April 2019, it ought to be noted that the Husband paid her S\$60,000 in January 2019. As such, while I ordered the Husband to pay back-dated maintenance for the children, this payment of S\$60,000 must be taken into account when computing the amount payable by the Husband.

Costs

143 In relation to the costs of the divorce proceedings, it may be noted that while the Women's Charter provides for a "no fault" divorce regime, under which there is only one ground for divorce, namely, the irretrievable breakdown of the marriage, the requirement in section 95 of the said Act that the sole ground of divorce be proven by five facts listed in section 95(3), three of which are fault-based facts, may be said to have retained notions of fault in the regime

because the said facts are in practice effectively the grounds for divorce (see *JBB v JBA* [2015] 5 SLR 153). In the present case, the Husband did not file a Defence or Counterclaim even though the Wife had alleged that he had been unfaithful to her. In view of this, I held that the Wife is entitled to costs amounting to S\$4,000 in relation to the divorce proceedings.

144 As for the costs of the hearing of the ancillary matters, in *TNL v TNK* [2017] 1 SLR 609, the Court of Appeal accepted (at [66]) that such costs are within the discretion of the trial judge. In this case, both parties claimed to be entitled to costs. The Wife pointed out that the Husband's failure to make full and frank disclosure of his assets despite the multiple requests made in discovery and interrogatories and his refusal to abide by court orders to disclose information has made it necessary for her to incur additional legal costs over a period of more than one and a half years to settle the ancillary matters. I agreed with her and awarded her costs totalling S\$15,000 for the unnecessarily prolonged completion of the hearing of the ancillary matters.

Tan Lee Meng
Senior Judge

Yoon Min Joo (M/s Harry Elias Partnership LLP) for the plaintiff;
Chettiar Kamalarajan Malaiyandi (M/s Rajan Chettiar LLC) for the
defendant.