IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2021] SGHCF 17

Divorce (Transferred) No 1639 of 2019

Between

CLB

… *Plaintiff*

And

CLC

… *Defendant*

GROUNDS OF DECISION

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

CLB
v
CLC

[2021] SGHCF 17

General Division of the High Court (Family Division) — Divorce (Transferred) No 1639 of 2019
Debbie Ong J
20, 21 January, 23 March 2021

24 June 2021

Debbie Ong J:

Introduction

1 These are the grounds of my decision on the division of matrimonial assets falling under s 112 of the Women's Charter (Cap 353, 2009 Rev Ed) (the "Women's Charter"). The other ancillary matters in these proceedings in respect of the custody and maintenance of the children have been stood down. They continue to be managed within the Multi-Disciplinary Team Pilot scheme recently set up by the Family Justice Courts ("FJC"). I had shared, extra-judicially, (see the Family Justice Courts Workplan Speech 2020 delivered on 21 May 2020 entitled "Today is A New Day") that FJC intends

> … to implement a Multi-Disciplinary Team "Pilot" called "the MDT Pilot" project. This Pilot will explore how judges, mediators, counsellors, psychologists and psychiatrists can work together to resolve the family's issues holistically through a coordinated multi-disciplinary team effort. The selected cases

> in this Pilot will be docketed to a team of hearing judges, judge-mediators, counsellors and case managers. …

It is heartening that the present parties have agreed to place their case into this MDT Pilot scheme, which endeavours to use a coordinated multi-disciplinary approach to holistic problem solving.

Facts

2 The plaintiff (the "Husband") and defendant (the "Wife") were married on 15 September 2003. The interim judgment of divorce (the "IJ") was granted on 26 July 2019 and the ancillary matters (the "AM") relating to the division of matrimonial assets were heard over two mornings on 20 and 21 January 2021. The issues concerning the children (*ie*, custody, care and control and maintenance) have been stood down in the meantime.

3 This was a marriage that lasted nearly 16 years. The parties have two children, [B] and [C] (the "Children"), who will turn 16 and 14 years of age in 2021. The Wife is 53 years old and a compliance officer at a bank; her monthly income is stated to be about $25,238. The Husband is 53 years old and a personal investor who earns about $22,799 per month on average from his investments.

The parties' cases

4 I highlighted to both parties' counsel that the joint summary of relevant information (the "Joint Summary") that they had jointly submitted is a key document which I will use as a summary of their latest submissions on their respective positions. I made it clear that the positions stated therein would represent their *final* positions which will be relied on in coming to my decision. In view of some changes to the parties' positions reflected in the respective

written submissions dated 28 December 2020, the Joint Summary dated 14 December 2020 was updated at the AM hearing.

5 As a general position, all matrimonial assets and liabilities should be identified at the time of the IJ and valued at the time of the AM hearing. It was noted that the balances in bank and Central Provident Fund ("CPF") accounts are to be taken at the time of the IJ, as the matrimonial assets are the moneys and not the bank and CPF accounts themselves. Thus, in general, available values as close to the AM hearing date as possible will be used. Nevertheless, where parties have specifically agreed to use a value for an asset or liability as at a different date, I will adopt that value instead for this decision. The parties agreed that, in general, the date for ascertaining the pool of assets is the IJ date and the date for valuing those assets is the date of the AM hearing (or closest to this date).

6 In this case, parties agreed on the values of all assets as listed in the Joint Summary save for [Property 1]. Parties agreed to the following exchange rates in valuing their assets: 1 RM = 0.33 SGD; 1 AUD = 0.94 SGD; 1 USD = 1.39 SGD. In this judgment, "$" refers to the Singapore dollar. I have used only whole dollar values in assigning values; the values in cents were dropped as they were *de minimis* in light of the large total value of the assets.

7 The main dispute in the present proceedings was over a group of assets, which the Husband claimed were pre-marriage assets and/or gifts and hence should be excluded from the pool of matrimonial assets. The Wife claimed that these assets should be included in the pool of matrimonial assets.

Division of Matrimonial Assets

Undisputed matrimonial assets

8 The parties agreed on the following matrimonial assets and their values, as tabulated:

S/N	Manner of Holding	Asset	Net Value / $
1.	Joint Names	UOB Account No. ending 71	0
2.		UOB Account No. ending 09	1,645
3.		UOB Account No. ending 8619	265
4.		UOB Account No. ending 64	0
5.		DBS Account No. ending 18	0
6.		DBS Treasures	277
1.	Wife's Name	[Property 2]	2,100,000
2.		DBS Account No. ending 54	12,754
3.		DBS Account No. ending 26	18,364
4.		Standard Chartered Bank ("SCB") Account No. ending 71	402,617
5.		SCB Account No. ending 50	2,127
6.		POSB Account No. ending 00	1,223
7.		POSB Account No. ending 70	1,537
8.		CPF Ordinary Account	183,995
9.		CPF Medisave Account	197,455
10.		CPF Special Account	57,200

S/N	Manner of Holding	Asset	Net Value / $
11.		Stocks and Shares in DBS Portfolio No. ending 40	278,567
12.		Stocks and shares in SCB Account No. ending 01	242,370
13.		CDP Account	1,838
14.		[D1] Securities	50,000
15.		SCB Securities No. ending 23	48,348
16.		[D2] shares	75,000
17.		SCB Account No. ending 02	29,000
18.		CPF Investment Scheme Account	5,000
19.		Prudential Policy No. ending 03	24,433
20.		AXA Fund No. ending 25	5,000
21.		Prudential Policy No. ending 91	175,967
22.		Prudential Insurance No. ending 98	33,174
23.		AXA Insurance No. ending 09	5,000
1.	Husband's Name	CIMB Account No. ending 23	393
2.		CIMB Account No. ending 04	0
3.		CIMB Account No. ending 98 Deposit No. ending 01	140,550
4.		CIMB Account No. ending 98 Deposit No. ending 02	139,523

S/N	Manner of Holding	Asset	Net Value / $
5.		CIMB Account No. ending 92 Deposit 1	52,000
6.		CIMB Fund (Contract No. ending 05)	-6,420
7.		Tanglin Club Membership	25,000
8.		Mazda Car	52,500
9.		CIMB Account No. ending 03	6,138
10.		UOB Account No. ending 91	0
11.		UOB Account No. ending 05	0
12.		UOB Account No. ending 13	0
13.		UOB Account No. ending 21	0
14.		UOB Account No. ending 48	0
15.		UOB Account No. ending 56	0
16.		ANZ Account No. ending 72	212
17.		[E] Inc	Unknown
18.		[F] Pte Ltd	Unknown
Total Net Value of Undisputed Matrimonial Assets			4,363,052

9 The Husband included the UOB Account No. ending 8619 in the Joint Summary as a matrimonial asset even though he had listed it as an excluded asset in his Affidavit of Assets and Means ("AOM"). In any case, the agreed value was relatively small at only $265, and I have included it in this table. I also noted that the Husband disputed that UOB Account No. ending 91, UOB Account No. ending 05, UOB Account No. ending 13, UOB Account No. ending 21, UOB Account No. ending 48 and UOB Account No. ending 56 were matrimonial assets. Nevertheless, as these assets had an agreed value of $0, their inclusion

made no practical difference to the division of assets, and thus I have included them in the table above.

10 In respect of the assets held in the Husband's sole name, the net value of the CIMB Fund (Contract No. ending 05) above is in the negative, after subtracting the $300,000 credit facility from the value of $293,580. The assets for [E] Inc and [F] Pte Ltd will be disregarded as neither party made any submissions in respect of either asset or estimated their respective values.

Assets disputed to be matrimonial assets

11 The parties disputed that a number of the assets held in their respective names were matrimonial assets. I will address each of these issues below.

Valuation of [Property 1]

12 The only asset in which the *value was disputed* was [Property 1]. Based on a valuation report from Knight Frank dated 16 January 2020, the Husband submitted that the value of [Property 1] is $4,500,000. The Wife contended that the more accurate value is $3,910,000, representing the average of two valuation reports from Jones Lang dated 24 July 2020 and SRX dated 5 July 2020. Although the Wife's valuation at 24 July 2020 was the most recent and closest to the date of the AM hearings, the Husband submitted that such valuation should not necessarily be accepted given that the valuation prepared by Knight Frank "takes into account the actual physical condition of [Property 1]". The Husband also highlighted that the Wife rejected the valuation report from Knight Frank in respect of [Property 1] without providing any further reasons for doing so, even though she agreed to adopt the valuation report from Knight Frank in respect of [Property 2].

13 I considered the manner in which the valuation was conducted. I noted that the Jones Lang valuation report was expressly qualified as they had been "unable to verify nor validate" the information that was given to them electronically about the physical state of the property from the Wife as "it was not possible to conduct a physical inspection." As such, the "condition is assessed based on information provided by the [Wife]". In respect of the SRX report, I noted that the report was similarly expressly qualified insofar as the "information and indicative price provided [therein] is for *general reference only* and does *not* constitute a valuation by a licensed appraiser. The information and indicative value is [*sic*] based on publicly available information, proprietary data of SRX and other third party sources believed but not guaranteed to be reliable" [emphasis added]. In particular, the SRX valuation report seemed to only consider past "comparable sale transactions" for [Property 1] in coming to the figure of $3,720,000. In contrast, the valuation report from Knight Frank was prepared after conducting "site inspection, title searches, … relevant inquiries and investigations". Based on the evidence, I was of the view that the Knight Frank report should be adopted. I included the value of $4,500,000 in the pool of matrimonial assets.

Exclusion of certain assets from the pool of matrimonial assets

14 I now address the main dispute on whether the assets in the following table, as contended by the Husband, should be excluded from the pool of matrimonial assets. The following table includes point-form notes of the Husband's basis for exclusion of the respective assets from the pool.

S/N	Asset	Basis for Exclusion	Net Value / $
1.	The Australian Property	Pre-nuptial agreement dated 10 September 2003 (the "Pre-Nuptial Agreement")	799,000
2.	CPF Ordinary Account	Pre-marital asset	27,471
3.	CPF Special Account		12,189
4.	CPF Medisave Account		14,080
5.	DBS Account No. ending 03	Pre-Nuptial Agreement (First Schedule); Pre-Nuptial Agreement ([G] Inc, [Property 3]); and Pre-marital gift ([H] Sdn Bhd)	7,463
6.	DBS Account No. ending 42	Pre-Nuptial Agreement ([G] Inc, [Property 3]); and Pre-marital gift ([H] Sdn Bhd)	367,285
7.	DBS Portfolio No. ending 60		398,230
8.	UOB Account No. ending 75	Pre-marital gift ([H] Sdn Bhd)	521

S/N	Asset	Basis for Exclusion	Net Value / $
9.	UOB Kay Hian Securities (M) Sdn Bhd Trading Account		42,883
10.	UOB Kay Hian Securities (M) Sdn Bhd Trust Account No. ending 34		377,978
11.	ANZ Account No. ending 55	Pre-Nuptial Agreement (First Schedule); Pre-Nuptial Agreement ([G] Inc, [Property 3]); and Pre-marital gift ([H] Sdn Bhd)	10,602
12.	Charles Schwab Account No. ending 76	Pre-Nuptial Agreement ([G] Inc, [Property 3]); and Pre-marital gift ([H] Sdn Bhd)	416,411
13.	Charles Schwab Account No. ending 12		656,661
14.	Commonwealth Securities Account No. ending 63		838,104
15.	Commonwealth Bank Account No. ending 29		3

S/N	Asset	Basis for Exclusion	Net Value / $
16.	Shaw and Partners (Australia) Account No. ending 15		1,081,409
17.	SAXO Capital Markets Account No. ending 21		809,275
18.	[J] Placement shares	Pre-Nuptial Agreement ([G] Inc, [Property 3]); and Pre-marital gift ([H] Sdn Bhd)	47,000
19.	Orbit Securities (Tanzania) Account No. ending 18		96,695
20.	Orbit Trust Account		4,433

15 I will consider each of the disputed assets according to the basis on which the Husband argued it was excluded.

(1) The applicable legal principles

16 Section 112(10) of the Women's Charter provides the definition of "matrimonial asset". With respect to the first group of assets "*acquired before the marriage* by one party or both parties to the marriage" ("Group A"), s 112(10)(*a*) of the Women's Charter provides that any asset within this group is transformed into a matrimonial asset only if it has been:

> (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) … *substantially improved* during the marriage by the other party or by both parties to the marriage; …
>
> [emphasis added]

17 The second group of assets comprising *gifts and inheritance* ("Group B") is excluded from the pool of matrimonial assets regardless of when they are acquired. An asset falling within this group is transformed into a matrimonial asset only if it is a "matrimonial home" or has been "substantially improved during the marriage by the other party or by both parties to the marriage". As explained in *Chen Siew Hwee v Low Kee Guan (Wong Yong Yee, co-respondent)* [2006] 4 SLR(R) 605 ("*Chen Siew Hwee*"), the rationale for exclusion is "*to prevent unwarranted windfalls accruing to the other party to the marriage*" [emphasis in original] (at [32]). It is only under certain limited circumstances that gifts and inheritance lose their respective character as gifts and inheritance (as explained at [20]) such that it may be fair to include them in the pool of matrimonial assets (provided they also fall within the requirements in s 112(10)(*a*) or (*b*)).

18 An asset acquired *before* marriage will only be transformed into a matrimonial asset in accordance with the transformation formula for Group A, stated above. An asset acquired by *gift or inheritance*, whether acquired *before or during* marriage, will be transformed into a matrimonial asset in accordance with the formula for Group B, also stated above.

19 The High Court in *Chen Siew Hwee* at [52] observed:

> … as a logical starting-point, a *gift* is (by its *very nature*) *not* acquired by *any effort* as such on the part of the donee and, *a fortiori*, on the part of *his or her* spouse. This is not to state that the concept of effort as such is irrelevant once one enters the realm of assets acquired by way of gift; far from it. Indeed, if there has in fact been *effort* by the spouse (who is *not* the donee of the gift) which results in *substantial improvement* to the gift, then he or she ought to have a share – and s 112(10) itself expressly provides for this. On the other hand … if the *donee* of the gift has, by his or her *efforts*, "*converted*" the gift into a different asset, then the new asset, if it has *ex hypothesi* lost its quality as a gift, can then be treated as part of the pool of

> matrimonial assets provided that it satisfies either para (*a*) or para (*b*) of s 112(10).
>
> [emphasis in original]

20 Whether a gifted asset loses its character as a gift depends on whether there was a "*real and unambiguous intention*" on the part of the donee of the asset that it was "to constitute part of the pool of matrimonial assets" (*Chen Siew Hwee* at [57]). The High Court further clarified (at [57]–[58]) that a gift does not cease to be a gift merely by "*literal* transformation". For a gift to lose its character as a gift, the "*literal* transformation" must be:

> … *accompanied by a voluntary intention on the part of the donee of the gift … that such transformation or conversion of the gift was for the purpose of integrating the gift into the pool of matrimonial assets*. If so, then the *literal* transformation would become a *legal* one as well. …
>
> In other words, where funds derived from a gift are used to acquire a new asset, *this new asset* will qualify as an "asset … acquired … by gift" within the qualifying words [of the Women's Charter] *unless* it can be shown that the *donee* … has demonstrated an *intention* that the new asset *should* be considered part of the pool of matrimonial assets. …
>
> [emphasis in original]

Apart from the formula as set out in [17] above, an asset falling within Group B will also be a matrimonial asset if it has "lost its quality as a gift" ***and*** it "satisfies either para (*a*) or para (*b*) of s 112(10)" (*Chen Siew Hwee* at [52]).

21 The evidentiary difficulties relating to whether a particular asset is a matrimonial asset may be addressed as a matter of burden of proof. In *USB v USA and another appeal* [2020] 2 SLR 588 ("*USB*"), the Court of Appeal held that (at [31]–[32]):

> … 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.
>
> 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*. For example, in our recent decision in *TQU v TQT* [2020] SGCA 8, it was undisputed that a property at Pender Court was a gift from the husband's father to the husband prior to the marriage (at [50]). The burden then fell on the wife to produce evidence that the property had been used as a matrimonial home and had therefore been transformed into a matrimonial asset, or that she had made substantial improvements to the property during the marriage (at [55]).
>
> [emphasis added]

22 In the present case, it was not disputed that the assets in question were pre-marital assets and/or gifts received by the Husband. Thus, the Wife bore the burden of proving that such assets had been transformed by the formulae in s 112(10) or lost their character as gifts and satisfied s 112(10)(*a*) or (*b*). Of note in the present case was the fact that there were existing assets which may not all be in their original form at the time they were first acquired. As a hypothetical example, suppose it is not disputed by the relevant parties that Asset X is a pre-marital asset or gift, but Asset X in its original form no longer exists at the time of the divorce. Suppose also, that one spouse then asserts that an existing asset, Asset Y, is a gift because either it is somehow *derived* from Asset X, or it is *in substance* Asset X existing in a different form as Asset Y at the time of the divorce. In such a scenario, it is for *the spouse making such assertions* to show satisfactorily that Asset Y is indeed a pre-marital asset or gift on the basis that, for example, there was a *literal* transformation in *only the form of Asset X* that is not accompanied by any intention for it to be part of the pool of matrimonial assets.

(2) Assets excluded from the pool of matrimonial assets: effect of Pre-Nuptial Agreement

23 The parties in the present case had entered into the Pre-Nuptial Agreement five days before their marriage in September 2003.

24 It is established law that pre-nuptial agreements "cannot be enforced in and of itself" and the court may have regard to such pre-nuptial agreements under s 112(2)(*e*) of the Women's Charter (*TQ v TR and another appeal* [2009] 2 SLR(R) 961 ("*TQ*") at [80]). This does not detract from the court's ultimate power to divide matrimonial assets in such proportions as the court thinks just and equitable (*TQ* at [73]). It is clear that pre-nuptial agreements are subject to the court's scrutiny. The issue that usually arises in such contexts is in respect of the *weight* that ought to be accorded to the pre-nuptial agreement (*TQ* at [75] and [91]).

25 The Pre-Nuptial Agreement entered into by the present parties seeks to "protect their separate property … from claims by each other if they separate", which includes:

> (a) All property … owned by each party at the date of this agreement including those assets and resources which are set out in the First and Second Schedules and any property acquired in exchange for such property;
>
> (b) All property later acquired by each party by gift, devise, bequest or inheritance and all property acquired in exchange for such property;
>
> (c) All income or other gains derived or to be derived from separate property of each party whether by sale, exchange, investment, disposition, or other dealing, or attributable to enhancement or appreciation of the property due in whole or part to market conditions or to the services, skills or efforts of either party; …

26 The First Schedule, in turn, lists out the Husband's assets as follows:

PERSONAL ASSETS

- [The Australian Property] [Home and Property]
- DBS Bank, Singapore, A/C Numbers: [ending 03, ending 07 and ending 22]
- ANZ Bank, Australia, A/C Number: [ending 55]
- …

COMPANY AND TRUST STRUCTURES

- …
- **[The Husband]** is the part beneficial owner of [Property 3] held on trust by [K] ("the Trustee"). [Trust Deed made on 17th June 1999].
- **[The Husband]** is the beneficial owner of [G] Inc (BVI)
- **[The Husband]** is the part beneficial owner of [H] Sdn Bhd held on trust by [K] ("the Trustee"). [Trust Deed made on 8th December 1998].

[emphasis in original]

27 The Husband submitted that the Pre-Nuptial Agreement should be accorded its full weight as "parties had signed the said agreement voluntarily with the benefit of independent legal advice, and the full enforcement of its terms will not result in a contravention of the principles of justice, fairness and equity". The Husband relied on *TQ* where, according to the Husband, the court "upheld the pre-nuptial agreement taking into account the fact that the parties had entered into the same voluntarily, as mature adults, in the presence of a notary public who had explained the content and effects of it."

28 The Wife submitted that, although the Pre-Nuptial Agreement is valid, the "parties' original intention and conduct after the marriage demonstrated that they had abandoned the [Pre-Nuptial] Agreement", as a result of "significant developments after the marriage". Such developments include the fact that the

Husband, shortly after parties were married, "left [Bank L]" and "floated between freelance work", spending about 15 years during the marriage of 16 years "without a stable job and income from employment". Under such circumstances, the Wife submitted that "parties never kept their finances separate" and parties "pooled their resources together in accordance with the concept of community of property" such that the Pre-Nuptial Agreement should be departed from. The Wife distinguished *TQ* as the prenuptial agreement in that case was "wholly foreign in nature", signed by "foreigners" and "only dealt with the parties' respective matrimonial assets only".

29 Clause 16 of the Pre-Nuptial Agreement provides that:

> Any property purchased after the marriage in which the evidence of title shows an unequal ownership of property will be divided in accordance with the percentage ownership reflected on the title. If no agreement is reached within 3 months of the separation date, the property will be sold and the proceeds divided in accordance with the percentage ownership reflected on the title.

I observed that, on the face of the agreement, properties such as [Property 1] and [Property 2], which were held in the Wife's sole name, would fall within the scope of Clause 16. Nevertheless, the Wife, who would have "benefited" from this clause, pointed out that dividing the matrimonial assets in such a manner (*ie*, such that the Wife retained both properties entirely) would not lead to a just and equitable division of the matrimonial assets.

30 I noted that open and frank contemporaneous correspondence from the Husband to the Wife dated as recently as 27 September 2018 suggested that the Husband had considered the matrimonial assets to be pooled together for the family's use, notwithstanding the Pre-Nuptial Agreement:

> Total Wealth:

> [Property 1] $4mm
>
> [Property 2] $2mm
>
> [The Australian Property] $2mm (exc tax liability)
>
> Cash – [Husband] $2.5mm
>
> Equities – [Husband] $2.5mm
>
> [Wife] – $1 mm
>
> **Total SG$16mm.**
>
> That is more than enough. What we cannot buy is time over the next 5 years for the kids.
>
> Once that is gone (their childhood and informative years), that is gone forever.
>
> In contrast, we can make/lose money over the next 30-40 years of our lives (if we live that long).
>
> **Time (next 5 years with kids) is the real asset. Invest in it**. Buy experiences (holidays, impart wisdom and life lessons) and memories rather than hard assets.
>
> [emphasis in original]

The manner by which the Husband encouraged the Wife to invest in the "real asset" of time with the kids (*ie*, by highlighting the family's stable financial position given their "**Total**" wealth) was a rather strong indicator that the Husband considered some of the assets in question to be part of the family's wealth, instead of merely his own personal wealth. This was relevant in determining the weight to be accorded to the Pre-Nuptial Agreement.

31 That was not the only occasion in which the Husband expressed such views. On 3 August 2017, the Husband expressed his desire to discuss the family's finances at the dinner table, with the Children present. In particular, the Husband expressed that it was "important to be financially independent and build a nest egg". On 18 April 2018, the Husband encouraged the Wife to reconsider whether "increasing net wealth" was "important" to her specifically

by reassuring her that "we can spend $8k a month and still have approx [*sic*] 75% or $11m remaining".

32 As early as 12 February 2007, the Husband had expressed similar sentiments to the Wife by way of an email regarding "Our Net Wealth":

> **Balance Sheet**
>
> **Assets:**
>
> [Property 1] Sing$1.5
>
> [Property 2] Sing$1.2
>
> [The Australian Property] Sing$3
>
> **Total: Sing$5.5million**
>
> **Liability:**
>
> $800K loan (This loan amount obtained to cover renovations as well)
>
> $230K renovations
>
> **Total: Sing$1.1million**
>
> **Net Worth:**
>
> **Sing$4.4 million. There is plenty to ensure [B] and your future comfort.**
>
> **Cash Flow Options:**
>
> Sing$300 (Project [M] proceeds). This goes towards $230K renovations + $70K for loan repayment. I have another Sing$100K I can contribute to the loan with some fat [*sic*] to cover my expenses. Net liability after these $600K.
>
> The $600K needs to be funded by your cash deposits. There is another net $45K per annum in rental proceeds from [Property 2's] rental to cover interest expense and living. …
>
> [emphasis in original]

33 The communications suggested that both the Husband and Wife operated on a common understanding and practically managed their financial

affairs in a way that did not seem fully consistent with the Pre-Nuptial Agreement.

34 I also noted that the Husband sought to include the properties in the Wife's sole name, [Property 1] and [Property 2], in the pool of assets to be divided. As I had mentioned earlier, a literal reading of the Pre-Nuptial Agreement, in particular clause 16, would lead to the result that the Wife would be entitled to these two properties entirely. The positions taken by the Husband were not consistent; if as the Husband claimed, the Pre-Nuptial Agreement ought to be given full weight, his position on these properties could not be upheld.

35 Considering all the relevant circumstances, I did not think it just and equitable to accord full weight to the Pre-Nuptial Agreement. This was not to say that I entirely disregarded it. I accepted that the parties, having signed a Pre-Nuptial Agreement, may to some extent be conscious of the broad arrangements contained in the agreement as they live out their married lives and this may be relevant when ascertaining a party's intention in respect of how he or she treats certain assets. However, also relevant was the fact that this was a Pre-Nuptial Agreement made long ago before their 16-year marriage, before the parties had any children. I had observed in an academic article "Prenuptial Agreements: Affirming *TQ v TR* in Singapore" (2012) 24 SAcLJ 402 at [13]:

> … In the marital context, the parties share an intimate relationship where parties may bargain with an attitude that is altruistic and generous, particularly where the relationship is subsisting lovingly. They bargain in a manner that is sensitive to the feelings of the other partner. The joint marital life of such parties is a journey where not every event can be foreseen, making it difficult for parties to make provisions where future circumstances are inevitably unpredictable. Children born to the parties complicate the matter as the state prioritises protecting vulnerable children. If marriage is seen as a journey where both parties adjust to each other, experience life

> together, and grow old together, then it seems unrealistic to make provisions for a future not yet learnt or experienced. Parties are pushed to "[e]nvisioning the end of a marriage not yet begun, prospective couples must divide property not yet acquired".

I observed that while the Husband relied on the Pre-Nuptial Agreement providing that pre-marriage assets and inheritance are his to retain, the Husband's conduct during the marriage relied on these very assets to provide for the family, whether by using them to produce new income or as security that will provide for the family when needed. Such conduct *had an effect on the Wife* in how she, in turn, conducted her life, such as in respect of her career choices, how she utilised her income or acquired assets. The contemporaneous communications on the various occasions above suggested that the Husband intended for some of his pre-marital assets to be used as matrimonial assets for the family. However, this did not necessarily mean that the Husband intended that *all* of his pre-marital assets listed in the First Schedule should constitute matrimonial assets. The Pre-Nuptial Agreement was accorded some weight as I bore in mind this context: whether the assets listed in the First Schedule were to be included in the pool of matrimonial assets would depend on the relevant facts surrounding each asset. The factors and circumstances I have just stated above would also be borne in mind. At the end of the day, the parties should move on after divorce with a just and equitable share of the net marital gains of their marriage partnership.

(3) Assets excluded from the pool of matrimonial assets: Husband's claims to exclude various assets

(A) PRE-MARITAL ASSET: THE CPF MONEYS

36 The Husband submitted that the following sums, representing the CPF moneys acquired before the marriage, should be excluded from the pool of

matrimonial assets: $58,778 (Ordinary Account); $8,648 (Special Account); and $11,971 (Medisave Account), amounting to a total of $79,397. The Wife's position, without more, was that the CPF moneys were "commingled with monies acquired during marriage".

37 I accepted the Husband's submission that the CPF moneys acquired before the marriage fell outside the pool of matrimonial assets. This case did not involve the more common movements of CPF funds used to purchase property where there are difficulties in identifying pre-marriage funds from post-marriage funds. I included only the amounts earned during the marriage in the pool of matrimonial assets (*ie*, the most recent available value minus the sums prior to the marriage):

CPF Account / $	1 September 2019	30 June 2003	Difference to be included in pool of matrimonial assets
Ordinary Account	86,249	58,778	27,471
Special Account	20,837	8,648	12,189
Medisave Account	26,051	11,971	14,080

(B) PRE-MARITAL GIFT: THE AUSTRALIAN PROPERTY

38 The Husband submitted that it was "undisputed that the Australia[n] Property was a gift received by the Husband prior to the marriage". The Wife's position did not contradict this as she has stated it to be "a gift from [the Husband's] father before our marriage".

39 On the facts, I found that the Australian Property fell within Group B, *ie*, it was a *gift* acquired before marriage. Whether a gift is a matrimonial asset

depends on whether it has been used as a matrimonial home, or has been substantially improved by the joint efforts of both parties or the other party, or has lost its character as a gift *and* satisfies the formula in s 112(10)(*a*) or (*b*) of the Women's Charter.

40 The Wife's position was that the Husband "had considered his Australian Property and any monies he had received by then as part of the family's assets" on the basis of his communications to her. The parties operated on such a mutual understanding because the Husband had "no full-time work and only [received] sporadic income from his freelance work" and hence would "contribute towards the marriage through his inheritance monies." As with her other arguments, the Wife's basis for claiming that certain pre-marital assets as stipulated in the Pre-Nuptial Agreement, such as the Australian Property, were matrimonial assets was that these assets were intended by the Husband for the family's use and hence transformed into matrimonial assets.

41 Intention alone does *not* transform an asset which is *prima facie* not a matrimonial asset into a matrimonial asset. Matrimonial assets are defined in s 112(10) of the Women's Charter and an asset which has lost its character as a gift must fall within the definition in s 112(10) before it can be considered a matrimonial asset. Thus, *even if the Wife was successful* in her arguments that the Australian Property had *lost its character as a gift*, the Wife must still prove that this pre-marital asset was transformed through s 112(10)(*a*) or (*b*) of the Women's Charter.

42 Since neither party claimed that the Australian Property, a pre-marital asset, was substantially improved during the marriage, the Wife had to show that it was "ordinarily used or enjoyed by both parties or one or more of their

children" for shelter or for household purposes (s 112(10)(*a*)(i) of the Women's Charter) if she asserts it had been transformed into a matrimonial asset.

43 The Wife's reliance on ordinary usage was brought up "[i]n addition" to the Husband's consideration of the Australian Property as "one of our family's assets". The Husband also noted that the Wife's position was that it had been transformed to a matrimonial asset "on the basis that it was enjoyed by the parties / family on 3 separate occasions". According to the Wife, her first stay in 2005 was for a period of "about 1 month" and her "parents came along and stayed in the property with [them]". Her second stay in 2007 was for a period of "2 months" during which she "maintained the house and looked after the 2 young children ([B] was 2 years old and [C] a newborn [*sic*]) while helping to thoroughly clean out the property, packing and giving away the [Husband's] father's unwanted possessions which were stored away in the attic and garage". The property was repaired and left in a state suitable for rental. The rental proceeds were then put into the Husband's ANZ Account No. ending 55. Whenever the family visited Perth "which was an annual affair, all our family expenses in Perth were paid by the [Husband] from this same bank account".

44 According to the Husband, "neither did the family live at the Australian Property at all in 2005, nor spend a period of 2 months at the said property in 2007". The Husband relied on a copy of [B]'s passport showing that "the family lived at the Australian Property" on only two occasions: (i) for 6 weeks between 23 October 2007 to 4 December 2007; and (ii) for 9 days between 8 March 2008 to 16 March 2008. He submitted that the Australian Property "has not been transformed into a matrimonial asset" by virtue of ordinary usage. Adding both periods together, the family resided at the Australian Property for a total period of 52 days.

45 I found that the Australian Property was not "ordinarily used" by both parties or their Children and was a pre-marital asset that fell outside the pool of matrimonial assets. The requirement of ordinary use would not be satisfied if the parties' use of the property was "occasional or casual" as the words "ordinarily used" required some form of substantiality (*BJS v BJT* [2013] 4 SLR 41 at [23]). For example, staying in a property for no more than 21 days out of 14 years of marriage is casual residence, not ordinary use of the property (*Ryan Neil John v Berger Rosaline* [2000] 3 SLR(R) 647 at [60]). Given the documentary evidence submitted, I accepted that it was more likely that the family had resided in the Australian Property for about 52 days out of the 16 years of marriage; this could not be said to amount to ordinary use of the Australian Property. Even if I were to accept the Wife's assertion that the family had resided in the Australian Property for about one month in 2005, I did not think that a total of only about 3 occasions totalling no more than 3 months throughout the 16 years of marriage amounted to an ordinary use of the asset. As such, I excluded the Australian Property from the pool of matrimonial assets.

(C) PRE-MARITAL ASSET: HUSBAND'S DBS ACCOUNT NO. ENDING 03

46 The Husband submitted that his DBS Account No. ending 03 was "the bank account which the Husband uses as a conduit to draw financial resources from his assets and apply it towards the family's expenditures. In other words, this DBS Account is a mere vessel or financial tool … and that the monies in the said account were ultimately derived from the Excluded Assets". Furthermore, this account was "included in the Pre-Nuptial Agreement". This was also the account into which the $450,000 from the sale of his 1/3 share in [Property 3] was credited on 1 December 2005.

47 The Wife's position was that the moneys in the account were "commingled with monies acquired during the marriage, monies from the Singapore inheritance, the Wife's monies and funds from this bank account were used for the family's expenses". According to the Wife, she had transferred a total of at least $28,000 from the years 2007 to 2015 to the account. The Wife was never repaid back for such sums nor did she "expect him to repay [her]", since parties did not conceptualise the moneys as "*his*" and "*hers*" [emphasis in original]. It was unfortunate that the Husband "never once mentioned" the Wife's "financial support for him to this same DBS bank account" in the Husband's "four affidavits of combined length of 3,211 pages". In respect of the $450,000, the moneys were "ploughed into the two Singapore properties held under the name of the Wife".

48 On the Husband's own evidence, he had "invested nearly $950,000" in the family in the period between 2004 to 9 February 2007. The sum of $950,000 which was spent on the family was "funded by $500K of [his] savings + $420 [*sic*] from [his] father ([Property 3] sale)". This was also supported by the Husband's response to the second round of discovery and interrogatories in which the Husband admitted that as far as he could recall, "he had 2 main sources from which he drew funds [of $360,000 for [Property 2]] from at the material time: (1) DBS Account No. ending 03; and (2) [G] Inc., a BVI company of which he is the sole beneficial owner." It was hence not disputed that the moneys from the sale of his 1/3 share in [Property 3] was converted to matrimonial assets shortly after the Husband received the $450,000.

49 It was not disputed that the moneys in the account were used to fund the family's expenses. The Husband did not dispute that the Wife had transferred an amount that was not insubstantial, of at least $28,000, into this account. He argued that this "does not in any way dilute the argument that the source of the

bulk of the funds in the account" was pre-marital and hence the moneys in the account should be excluded from the pool of matrimonial assets. However, he did not point to evidence to show the source of the "bulk of the funds".

50 I found that the Husband's original pre-marriage moneys, if any, were co-mingled with other funds which were matrimonial assets and were "no longer separately identifiable" (*UYP v UYQ* [2020] 3 SLR 683 ("*UYP*") at [14]). The Husband also had an intention to utilise the assets for and on behalf of the family. I observed that the balance in DBS Account No. ending 03 of $7,463 was a small sum in light of the total pool of assets. I included this sum of $7,463 into the pool of matrimonial assets.

(D) PRE-MARITAL GIFT: HUSBAND'S 1/3 SHARE IN [H] SDN BHD

51 According to the Husband, he was the beneficial owner of the shares in [H] Sdn Bhd "under a trust that was created in 1998". The trust deed dated 8 December 1998 provided that 80,000 shares were to be held by the Husband's sister on trust for the Husband and his two siblings. After the Husband's father "passed away on 6 March 2008, [his] share of the proceeds from the sale of the shares under the Trust Deed were distributed in several tranches". A total sum of $3,373,902 from February 2010 to mid-August 2014 was deposited immediately into UOB Account No. ending 1619, a joint account which is now closed. The last tranche received in mid-June 2015 for the sum of $23,738 was immediately deposited in UOB Account No. ending 8619, a joint account which is currently valued at $265, which was addressed at [9]. As such, the Husband received a total of $3,397,640 for his 1/3 share (this sum was later corrected by the Husband to $3,541,240 based on the prevailing foreign exchange rates at the material time). The Husband explained that the funds were initially put into joint

accounts "simply to operate as a contingency plan" such that the Wife and Children "can access the funds for the support of the family after my demise."

52 The moneys were subsequently deposited into UOB Account No. ending 75 with a value of $521, UOB Kay Hian Securities (M) Sdn Bhd Trading Account with a value of $42,883 and UOB Kay Hian Securities (M) Sdn Bhd Trust Account No. ending 34 with a value of $377,978. The total value of these assets was $421,382.

53 The Husband submitted that part of the moneys was also used to acquire the Husband's other assets such as the Orbit Securities (Tanzania) Account No. ending 18 with a value of $96,695, Orbit Trust Account with a value of $4,433, [J] Placement shares with a value of $47,000, DBS Account No. ending 42 with a value of $367,285 and DBS Portfolio No. ending 60 with a value of $398,230. The total value of the aforementioned assets was $913,643. In respect of those accounts, the Husband submitted that such accounts were also funded from the sale of [G] Inc (BVI) and the "sale proceeds from the Husband's share of [Property 3]". However, it was not disputed that the moneys from the sale of his 1/3 share in [Property 3] was already converted to matrimonial assets shortly after the Husband received the $450,000 (see [48] above).

54 According to the Wife, the Husband intended to "share the monies with the [Wife] and the utilisation of the monies to provide for [the] family was unambiguous and undisputed." For example, the Husband opened the joint bank account together with the Wife "immediately upon receiving all funds" and deposited the funds therein. Some of the funds were thereafter transferred to joint fixed deposit accounts together with the Wife. Additionally, moneys "from the said joint bank account were used towards the family's holidays in Malaysia". The moneys were kept in the joint accounts "until the marriage broke

down in late 2018", when the Husband transferred funds out of the joint accounts to "ringfence" the moneys. The Wife disagreed with the Husband's position that in relation to these moneys, only "monies that were used from these accounts during the marriage may be matrimonial assets or converted into matrimonial assets"; her position was that such moneys "no longer exist".

55 It was not disputed that the moneys were not co-mingled with any other moneys. It was also not disputed that the shares were pre-marital gifts to the Husband and hence fell within Group B. As such, the first issue to consider was whether such gift had lost its character as a gift; and secondly, if it had lost its character as a gift, whether such asset satisfied s 112(10)(*a*) or (*b*) of the Women's Charter.

56 I did not think that the Husband's act of depositing moneys into a joint account in itself was sufficient to evince the requisite "*real and unambiguous intention*" that the entire asset was to be part of the pool of matrimonial assets (*Chen Siew Hwee* at [57]). Even if I considered the contemporaneous communications from the Husband to the Wife as elaborated at [30]–[32], the Husband's reference to "cash" was ambiguous and the Husband did not, at any material time, refer specifically to his inheritance moneys under the trust deed. Although the Husband used some part of his inheritance during the marriage for and on behalf of the family, the Husband could retain the rest of his inheritance if he did not intend for such inheritance to be part of the pool of matrimonial assets. In any case, neither of the tests under s 112(10)(*a*) of the Women's Charter were satisfied on the facts. As such, the UOB Account No. ending 75, UOB Kay Hian Securities (M) Sdn Bhd Trading Account, and UOB Kay Hian Securities (M) Sdn Bhd Trust Account No. ending 34 were excluded from the pool of matrimonial assets.

57 Separately, whether the Husband's other assets listed at [53] above were to be excluded from the pool of matrimonial assets would depend on whether the sale proceeds from the [G] Inc (BVI) were also non-matrimonial assets.

(E) PRE-MARITAL GIFT: HUSBAND'S [G] INC (BVI)

58 In respect of the Husband's share in [G] Inc, the Husband stated that "[a]ll proceeds derived from its winding up in 2006 were transferred to a BNP Paribas Account No. [ending 48], which was subsequently distributed in accordance with the … Memorandum of Wishes". The Husband's 23.33% share amounted to USD 243,974 CHF 95,341, and GBP 16,851. The moneys were "transferred to and mixed with the existing funds in the same DBS bank account which is expressly excluded from the matrimonial pool" (*ie*, DBS Account No. ending 03, which was addressed at [50]). The moneys were also used to partially fund the balance costs of $360,000 for [Property 2] (see [48] above). As mentioned above at [53], the moneys were put into the Orbit Securities (Tanzania) Account No. ending 18 with a value of $96,695, Orbit Trust Account with a value of $4,433, [J] Placement shares with a value of $47,000, DBS Account No. ending 42 with a value of $367,285, and DBS Portfolio No. ending 60 with a value of $398,230.

59 The Wife did not address the moneys from [G] Inc (BVI) specifically but rather simply grouped such moneys together with the Husband's inheritance under the Singapore Will amounting to $831,540 and the Husband's 1/3 share in [Property 3] amounting to $450,000. The Wife submitted that the "repeated assurances to the [Wife] that [the Husband's] inheritance belonged to both of them" was sufficient for the asset to lose its character as a gift such that it should be "added to the pool of matrimonial assets for division". Further, the Wife submitted that "there [had] been substantial improvement during the marriage

of the inheritance monies through the efforts of the [Wife] or the joint efforts of both parties" under s 112(10)(*a*)(ii) of the Women's Charter. The Wife submitted that it was her "good and steady income" that enabled her Husband to maintain "his wealth and the family would not have weathered [the Husband's] unsuccessful job applications and business failures".

60 It was not disputed that [G] Inc (BVI) was a pre-marital gift and the asset fell within Group B. I did not think that the Husband's contemporaneous communications referencing "cash" on its own was sufficient to evince a real and unambiguous intention that the moneys from [G] Inc (BVI) were to constitute the pool of matrimonial assets. In particular, the Husband did not, at any material time, refer specifically to his pre-marital gift of [G] Inc (BVI).

61 While I appreciated that the Wife's resilience helped in providing for her family's expenditure through her "good and steady income", such contributions by the Wife did not amount to "substantial improvement" of the Husband's pre-marital gift within the meaning of the Women's Charter. It is clear that "substantial improvement" must involve some sort of "investment of some kind in the asset" (*USB* at [22]). On the facts, the Wife's provision for her family was part and parcel of a marriage and quite separate from an investment *in the asset*. In that regard, it was not disputed that it was the Husband who used his experience as an investor to improve his pre-marital gifts. The Wife was not involved in investing the assets so as to substantially improve them. However, such efforts by the Wife were not irrelevant and could still be considered as part of her indirect contributions.

62 It was not disputed that all of the accounts above were acquired using the Husband's pre-marital gifts. The assets hence retain their character as gifts. As such, the Orbit Securities (Tanzania) Account No. ending 18, Orbit Trust

Account, [J] Placement Shares, DBS Account No. ending 42, and DBS Portfolio No. ending 60 were excluded from the pool of matrimonial assets.

(F) INHERITANCE: HUSBAND'S INHERITANCE UNDER THE AUSTRALIAN WILL

63 I will not address the inheritance under the Malaysian Will executed on 22 September 2006, as "there was hardly any distribution made to [the Husband] or the children."

64 One main difficulty in this case was that neither the Husband nor the Wife in their respective written submissions distinguished the different accounts based on the sources of moneys. The source of the moneys in the various accounts and how they related to each allegedly excluded asset were not clear.

65 According to the Husband, he had inherited "12.5% of the residuary" of his late father's estate under the Australian Will. The Husband received a total of $132,693 under the Australian Will on 2 October 2009 which comprised the "12.5% Children's entitlement under [his] late father's Australian Will" *and* the Husband's entitlement under the Australian Will. The moneys which he inherited under the Australian Will were "mixed" with his "existing funds in an account that [he] maintain[ed] with ANZ Bank" which was used "when the family made trips to Australia". As the Husband only had two accounts with ANZ bank, one of which he accepted to be a matrimonial asset, I concluded that this part of his affidavit related to the ANZ Account No. ending 55. The Husband did not go further to explain the source of his "existing funds" in this account or other accounts which funds also "intermingled" with the $132,693.

66 According to the Wife, the moneys in the Australian bank accounts and Australian investment accounts included "funds from the joint Malaysian bank accounts" between September 2018 and December 2018 (*ie*, after the

breakdown of the marriage). This was based on the Husband's finances as a whole across the Malaysian and Australian accounts. For example, the Wife submitted that the Husband could not have grown his inheritance of only $100,000 under the Australian Will by "more than 900%" within less than a decade. This appeared to be more relevant to the issue of drawing an adverse inference, which will be addressed below.

67 The Wife also argued that "during the marriage, the [Husband] never ringfenced his Australian bank accounts and had used monies from the bank accounts for the benefit of the family". For example, the rental proceeds from the Australian Property were credited into ANZ Account No. ending 55. Whenever the family visited Perth, "all [of the] family expenses in Perth were paid by the [Husband] from this same bank account". In more recent years, the family trips took place during the following periods: 10 June 2016 to 21 June 2016; 2 September 2018 to 9 September 2018; and 4 June 2019 to 9 June 2019.

68 It was not disputed that the moneys in the account were used to fund the family's expenses. The Wife also accepted that the inheritance moneys had been placed in other accounts such as the Charles Schwab Account No. ending 12, Commonwealth Bank of Australia Account No. ending 29 and ANZ Account No. ending 55.

69 I found that the Husband had the intention to utilise the moneys in the ANZ Account No. ending 55 for the family. I accepted that, in respect of the ANZ Account No. ending 55, both parties had at all material times operated on the common understanding that the moneys therein were for the family's use. The Husband had intended and considered moneys in that account to be part of the family's assets and it was not necessary to trace the original source of the moneys, for the moneys from various sources had been co-mingled. I included

the ANZ Account No. ending 55 in the pool of matrimonial assets at a value of $10,602.

70 I now turn to consider whether the moneys in the other Australian accounts were also to be included in the pool of matrimonial assets. Specifically, according to the Husband, the inheritance moneys were also "intermingled with funds that [he had] in another account known as Commonwealth Bank Account No. [ending 29], as well as trading / investments accounts that [he] maintain[ed] with, [Charles Schwab] Account No. [ending 76], [Charles Schwab] Account No. [ending 12], Commonwealth Securities Account No. [ending 63], Shaw and Partners (Australia) Account [No. ending 15] and SAXO Capital Markets Account no: [ending 21]."

71 In respect of the Commonwealth Bank Account No. ending 29, Charles Schwab Account No. ending 12, Commonwealth Securities Account No. ending 63 and Shaw and Partners (Australia) Account No. ending 15, counsel for the Wife submitted that such accounts were opened during the marriage. This was because such accounts were *not* listed in the First Schedule of the Pre-Nuptial Agreement and hence, must have been opened by the Husband during the marriage. I also noted that the Charles Schwab Account No. ending 76 and SAXO Capital Markets Account No: ending 21 were similarly not listed in the Pre-Nuptial Agreement.

72 In the absence of evidence or submissions by the Husband to the contrary, I accepted that such accounts were opened during the marriage. However, the fact that such accounts were opened during the marriage did not necessarily mean that the moneys therein were matrimonial assets. If the Husband showed that all of the moneys in such accounts were inheritance moneys belonging solely to himself, such moneys would *prima facie* fall outside

the pool of matrimonial assets and it would be for the Wife to show they had been transformed.

73 The Husband submitted that the moneys in these Australian accounts also came from his 1/3 share in [H] Sdn Bhd and [G] Inc (BVI). He argued that these funds had "not been mixed with any monies from the [Wife] during the entire marriage" but admitted that the accounts in which the moneys were credited were held in joint names (with the Wife).

74 The Husband's inheritance under the Australian Will was obtained on 2 October 2009. He received his first tranche of his 1/3 share in [H] Sdn Bhd in February 2010 and further tranches until 2015. The proceeds of [H] Sdn Bhd's shares were placed into UOB Account No. ending 1619, a joint account which is now closed (see [51] above). Likewise, the moneys from the winding up of [G] Inc (BVI) was received after 3 October 2008 and eventually "transferred to and mixed with the existing funds in the same DBS bank account which is expressly excluded from the matrimonial pool" (*ie*, DBS Account No. ending 03, which was addressed at [50]). I gathered that the Husband's own evidence supported the Wife's submission that the Australian accounts contained moneys from the joint Malaysian accounts.

75 I found that even if moneys from the Husband's 1/3 share in [H] Sdn Bhd and [G] Inc (BVI) were eventually transferred into the Australian accounts, the moneys had been co-mingled and were "no longer separately identifiable" as the Husband's inherited assets (see *UYP* at [14]). On the Husband's own evidence, the inheritance moneys of $132,693 did not belong to him only. Part of that sum of $132,693 belonged to the Children as well.

76 I included into the pool the Commonwealth Bank Account No. ending 29, Charles Schwab Account No. ending 76, Charles Schwab Account No. ending 12, Commonwealth Securities Account No. ending 63, Shaw and Partners (Australia) Account No. ending 15, and SAXO Capital Markets Account No. ending 21 at their respective agreed values.

(G) INHERITANCE: HUSBAND'S INHERITANCE UNDER THE SINGAPORE WILL

77 It was not disputed that the Husband was the sole beneficiary under his late father's Singapore Will which was executed on 7 August 2007. Under the Singapore Will, the Husband inherited [Property 3] which was valued at $3,210,200 and DBS Account No. ending 67 with a value of $503,632. The Husband's share of the Singapore Will, after distributing in accordance with his late father's Memorandum of Wishes, amounted to $831,540, which was credited into his DBS Account No. ending 03 and thereafter put into various financial investments. However, there was no further explanation as to how much and which specific financial institutions the moneys were invested with.

78 Given the lack of evidence on what assets the inheritance was literally transformed into, I was unable to make a finding as to which of the Husband's assets were acquired using the inheritance under the Singapore Will. Neither party pointed me to specific evidence as to where the inheritance moneys that were originally in the DBS Account No. ending 03 had been transferred.

79 The Husband merely referred to his "share of [Property 3]" in support of his submission that the moneys in the Orbit Securities (Tanzania) Account No. ending 18, Orbit Trust Account, [J] Placement Shares, DBS Account No. ending 42, and DBS Portfolio No. ending 60 were to be excluded. Such "share of [Property 3]", however, was not necessarily the same as his inheritance under

the Singapore Will for a total sum of $831,540. The Wife, similarly, lumped the sum of $831,540 together with other moneys for a total sum of $1,800,952 as the "Singapore Monies". She made no submissions on the sum of $831,540 which the Husband received under the Singapore Will.

80 As such, the Husband's inheritance under the Singapore Will neither helped nor supported his contention that the assets listed at [14] were to be excluded from the pool of matrimonial assets. In any case, I did not think that anything turned on a finding of fact as to whether the Husband's inheritance moneys had indeed been used to fund the Orbit Securities (Tanzania) Account No. ending 18, Orbit Trust Account, [J] Placement Shares, DBS Account No. ending 42, and DBS Portfolio No. ending 60. Regardless of whether the moneys in these accounts were partly funded using the Husband's inheritance moneys under the Singapore Will, the moneys therein were to be excluded from the pool of matrimonial assets. This was because the moneys in such accounts would be comprised of only non-matrimonial assets in any case (*ie*, comprising either sale proceeds from the 1/3 share of [H] Sdn Bhd and proceeds from winding up [G] Inc (BVI) *only*; or include *also* the inheritance moneys received under the Singapore Will).

Adverse inference against the Husband

81 The parties have a duty to fully and frankly disclose their assets in order that a fair assessment of the total pool of matrimonial assets can be determined. An adverse inference may be drawn for a failure to fully and frankly disclose one's assets and means. This adverse inference may be drawn where the following criteria are satisfied (*UZN v UZM* [2021] 1 SLR 426 ("*UZN*") at [18]):

> (a) there is a substratum of evidence that establishes a *prima facie* case against the person against whom the inference is to be drawn; and

> (b) that person must have had some particular access to the information he is said to be hiding.

The court's findings in respect of the value of undisclosed assets should thereafter be reflected in the manner in which the court gives effect to the adverse inference (*ie*, uplift approach or quantification approach) (*UZN* at [36]).

82 The Wife relied on the "extensive time required to trace the monies which could have been saved if the [Husband] provided the requisite information from the outset" as the basis for drawing an adverse inference. In particular, the Wife submitted that an adverse inference should be drawn over the Husband's "withdrawal from parties' joint bank accounts in Malaysia, and his lack of transparency on it" which led to a "tedious tracing exercise" which led to "a total number of 1,215 pages of bank statements and supporting documents provided … simply to thwart the tracing of the monies". As such, the Wife submitted that "the percentage division in favour of the [Wife]" be adjusted upwards by 5%.

83 At the AM hearing, counsel for the Wife highlighted the "mind map" of moneys moved between the Husband's various accounts in Malaysia, Australia, and Singapore across different years. Based on the "mind map" submitted, it was not disputed that the Husband's moneys were generally accounted for and traceable, notwithstanding the movements made between the different accounts. While I appreciated the effort which the counsel for the Wife put in to trace the moneys in contention, I accepted the Husband's response that such "extensive time required to trace the monies which could have been saved" was not a basis for drawing an adverse inference under the law.

84 Nevertheless, I recognised that the Wife's underlying complaint was that the Husband "had withdrawn lump sums of monies from the joint bank accounts

to accounts held in his sole names such as the amount of RM$300,000.00 on 30 August 2018, the amount of RM$52,587.64 on 3 September 2018 and the amounts of US$555,000.00, RM$139,000.00 and RM$674,641.29 in the span of eight (8) days". Such withdrawals took place around the time the marriage broke down. In contrast, "such large sums from the years of 2010 to late 2018" were never withdrawn. The Wife submitted that the Husband's "sole goal for the withdrawals was to dissipate the matrimonial assets by transferring them to his sole name accounts so that he could claim that they were inheritance".

85 Although those specific sums mentioned were accounted for within the "mind map", I found that the increase in total value of the assets was not accounted for by the Husband. The top of the "mind map" showed the following starting balances in the various accounts and the bottom of the map reflected the most recent balance of the various accounts. The updated values were as such:

Account / Date	**Earlier Balance / $**	**Balance at AM / $**
Proceeds from winding up of [G] Inc (BVI) / 3 October 2008	519,411	NA, initially credited into a BNP Paribas account and then transferred into various accounts
Malaysia Accounts (Sale of shares in [H] Sdn Bhd) / 2010–2015	3,541,240	427,520
Australia Accounts (Inheritance under	132,693	3,960,805

Account / Date	Earlier Balance / $	Balance at AM / $
the Australia Will) / 2 October 2009		
Singapore Accounts (Inheritance under the Singapore Will) / 4 February 2009	831,540	772,978
Total	5,024,884	5,161,303

While movements of moneys between accounts, without more, were insufficient to support a conclusion that the Husband was wrongfully dissipating the assets, I agreed that it was incumbent upon the Husband to account for the significant discrepancy.

86 Even taking the Husband's case at its highest (*ie*, accepting the Husband's position that the full initial sum of $5,024,884 belonged solely to him, giving the Husband the liberty to transfer his moneys between all of his accounts, and assuming that the Husband spent only $360,000 for the balance costs of [Property 2] and nothing more), the remaining value should be only $4,664,884 ($5,024,884 minus $360,000). The discrepancy amounting to $496,419, which represented a net value increase of 10.6%, was not accounted for by the Husband. In fact, it was the Husband's case that the value of all of his assets increased by only $145,624 "from the inception of the marriage until the breakdown". As such, I found that the Husband was unable to account for the

additional $496,419. This was a large sum for which a fuller account or disclosure can be expected.

87 Since the moneys were in accounts held in his sole name, the Husband would have had access to all the information in respect of the movement of moneys, injection of funds, and gains made. I found it appropriate in the present circumstances to draw an adverse inference for the Husband's failure to fully and frankly disclose his assets in this respect. I added the unaccounted sum of $496,419 into the pool of matrimonial assets.

Total net value of the pool of matrimonial assets

88 The net value of the pool of matrimonial assets liable for division was **$13,233,139** as set out in the table below.

S/N	Manner of Holding	Asset	Net Value / $
1.	Joint Names	UOB Account No. ending 71	0
2.		UOB Account No. ending 09	1,645
3.		UOB Account No. ending 8619	265
4.		UOB Account No. ending 64	0
5.		DBS Account No. ending 18	0
6.		DBS Treasures	277
7.	Wife's Name	[Property 1]	4,500,000
8.		[Property 2]	2,100,000
9.		DBS Account No. ending 54	12,754
10.		DBS Account No. ending 26	18,364
11.		SCB Account No. ending 71	402,617

12.		SCB Account No. ending 50	2,127
13.		POSB Account No. ending 00	1,223
14.		POSB Account No. ending 70	1,537
15.		CPF Ordinary Account	183,995
16.		CPF Medisave Account	197,455
17.		CPF Special Account	57,200
18.		Stocks and Shares in DBS Portfolio No. ending 40	278,567
19.		Stocks and shares in SCB Account No. ending 01	242,370
20.		CDP Account	1,838
21.		[D1] Securities	50,000
22.		SCB Securities No. ending 23	48,348
23.		[D2] shares	75,000
24.		SCB Account No. ending 02	29,000
25.		CPF Investment Scheme Account	5,000
26.		Prudential Policy No. ending 03	24,433
27.		AXA Fund No. ending 25	5,000
28.		Prudential Policy No. ending 91	175,967
29.		Prudential Insurance No. ending 98	33,174
30.		AXA Insurance No. ending 09	5,000
31.	Husband's Name	CPF Ordinary Account	27,471
32.		CPF Special Account	12,189

33.		CPF Medisave Account	14,080
34.		DBS Account No. ending 03	7,463
35.		CIMB Account No. ending 23	393
36.		CIMB Account No. ending 04	0
37.		CIMB Account No. ending 98 Deposit No. ending 01	140,550
38.		CIMB Account No. ending 98 Deposit No. ending 02	139,523
39.		CIMB Account No. ending 92 Deposit 1	52,000
40.		CIMB Fund (Contract No. ending 05)	-6,420
41.		Tanglin Club Membership	25,000
42.		Mazda car	52,500
43.		CIMB Account No. ending 03	6,138
44.		UOB Account No. ending 91	0
45.		UOB Account No. ending 05	0
46.		UOB Account No. ending 13	0
47.		UOB Account No. ending 21	0
48.		UOB Account No. ending 48	0
49.		UOB Account No. ending 56	0
50.		ANZ Account No. ending 55	10,602
51.		ANZ Account No. ending 72	212
52.		Charles Schwab Account No. ending 76	416,411
53.		Charles Schwab Account No. ending 12	656,661

54.		Commonwealth Securities Account No. ending 63	838,104
55.		Commonwealth Bank Account No. ending 29	3
56.		Shaw and Partners (Australia) Account No. ending 15	1,081,409
57.		SAXO Capital Markets Account No. ending 21	809,275
58.	Adjustment for adverse inference		496,419
Total Net Value			13,233,139

Proportions of Division

89 Having determined and valued the pool of matrimonial assets, I turn to address how the pool should be divided between the parties.

90 The structured approach in *ANJ v ANK* [2015] 4 SLR 1043 ("*ANJ*") was applicable to the present case. In applying this approach, I will first consider each party's direct and indirect contributions. The sum notionally added into the pool of matrimonial assets would not be credited to the Husband as his direct contribution. This was because it arose from an adverse inference (see *BPC v BPB* [2019] 1 SLR 608 at [67]).

Direct contribution ratio

(1) Agreed direct contributions

91 As reflected in the Joint Summary, parties agreed on the following direct contributions:

S/N	Asset	Husband / $	Wife / $
1.	UOB Account ending 71	0	0
2.	UOB Account No. ending 09	1,645	0
3.	UOB Account No. ending 8619	265	0
4.	UOB Account No. ending 64	0	0
5.	DBS Account No. ending 18	0	0
6.	DBS Account No. ending 54	0	12,754
7.	DBS Account No. ending 26	0	18,364
8.	SCB Account No. ending 71	0	402,617
9.	SCB Account No. ending 50	0	2,127
10.	POSB Account No. ending 00	0	1,223
11.	POSB Account No. ending 70	0	1,537
12.	CPF Ordinary Account	0	183,995
13.	CPF Medisave Account	0	197,455
14.	CPF Special Account	0	57,200
15.	Stocks and Shares in DBS Portfolio No. ending 40	0	278,567
16.	Stocks and shares in SCB Account No. ending 01	0	242,370
17.	CDP Account	0	1,838
18.	[D1] Securities	0	50,000
19.	SCB Securities No. ending 23	0	48,348
20.	[D2] shares	0	75,000
21.	SCB Account No. ending 02	0	29,000
22.	CPF Investment Scheme Account	0	5,000
23.	Prudential Policy No. ending 03	0	24,433

24.	AXA Fund No. ending 25	0	5,000
25.	Prudential Policy No. ending 91	0	175,967
26.	Prudential Insurance No. ending 98	0	33,174
27.	AXA Insurance No. ending 09	0	5,000
28.	CPF Ordinary Account	27,471	0
29.	CPF Special Account	12,189	0
30.	CPF Medisave Account	14,080	0
31.	DBS Account No. ending 03	7,463	0
32.	CIMB Account No. ending 23	393	0
33.	CIMB Account No. ending 04	0	0
34.	CIMB Account No. ending 98 Deposit No. ending 01	140,550	0
35.	CIMB Account No. ending 98 Deposit No. ending 02	139,523	0
36.	CIMB Account No. ending 92 Deposit 1	52,000	0
37.	CIMB Fund (Contract No. ending 05)	-6,420	0
38.	Tanglin Club Membership	25,000	0
39.	CIMB Account No. ending 03	6,138	0
40.	UOB Account No. ending 91	0	0
41.	UOB Account No. ending 05	0	0
42.	UOB Account No. ending 13	0	0
43.	UOB Account No. ending 21	0	0
44.	UOB Account No. ending 48	0	0
45.	UOB Account No. ending 56	0	0

46.	ANZ Account No. ending 55	10,602	0
47.	ANZ Account No. ending 72	212	0
48.	Charles Schwab Account No. ending 76	416,411	0
49.	Charles Schwab Account No. ending 12	656,661	0
50.	Commonwealth Securities Account No. ending 63	838,104	0
51.	Commonwealth Bank Account No. ending 29	3	0
52.	Shaw and Partners (Australia) Account No. ending 15	1,081,409	0
53.	SAXO Capital Markets Account No. ending 21	809,275	0
Sub-total of agreed direct contribution		4,232,974	1,850,969

92 Parties disagreed on the direct contributions for the following assets:

S/N	Asset	Disagreement
1.	DBS Treasures	Party who contributed $277
2.	[Property 1]	Respective amounts contributed by each party
3.	[Property 2]	Party who contributed $82,100
4.	Mazda Car	Precise ratio to be used

(2) Disputed direct contributions

(A) DBS TREASURES

93 In the Joint Summary, both parties claimed that they had contributed the full $277 to the joint DBS Treasures account. However, neither party made any submission in respect of the same. In any case, the disputed sum of $277 was not so significant compared to the pool of matrimonial assets as to change the ratio for direct contribution. As such, I made no finding as to whether the $277 in the DBS Treasures account was contributed by the Husband or the Wife.

(B) [PROPERTY 1]

94 In the Joint Summary, both parties agreed that the Husband and Wife's direct contributions to [Property 1] were 39.58% and 60.42% respectively. Having accepted that the value for [Property 1] was $4,500,000, I attributed $1,781,100 and $2,718,900 as the direct contributions of the Husband and Wife respectively.

(C) [PROPERTY 2]

95 The disagreement between parties was in respect of some cash payments towards the purchase price amounting to $82,100. According to the Husband, he had paid the full $400,000 of the purchase price in cash such that his total contribution amounted to $558,185. According to the Wife, the Husband had paid only $317,900 and she had paid the remaining $82,100 of the purchase price.

96 To support his position, the Husband relied on two emails between the parties. In the email regarding "[Property 2]: Costs to Date (S$~848K)" dated 28 May 2006, the Wife noted that "**Purchase Price = S$400,000** (Peter paid)"

[emphasis in original]. In the email regarding "$950,000 spent on family over last 3 years" dated 9 February 2007, the Wife responded that she was "NOT quibbling on the fact that [the Husband] did contribute to part of [Property 2]" [emphasis in original] when the Husband wrote that he had contributed $554,565 to [Property 2].

97 The Husband also highlighted that the Wife "had shifted her position over the course of the proceedings" from her initial position of contributing 90% to the purchase price after the Husband located "2 additional cheques". The first cheque dated 30 July 2004 issued by the Wife was for a sum of $91,578. The second cheque dated 30 July 2004 issued by the Husband was for a sum of $277,990. According to the Husband, he "had subsequently made reimbursements to the Wife" for the "legal fees of $7,000.00" and "the balance of the purchase price". The Husband's claims that he had reimbursed $7,000 *and* the balance of the purchase price were supported by a copy of the bank's deposit slip dated 2 August 2004 to the Wife and the aforementioned email dated 28 May 2006 respectively.

98 The Wife accepted that the Husband had reimbursed her $7,000 but averred that the Husband did not reimburse her the remaining amounts (*ie*, $2,568 for the remaining legal fees and stamp duties and $82,100 for the purchase price). With respect to the emails, the Wife submitted that the email dated 9 February 2007 suggested that she had made some direct contribution to [Property 2]. In particular, the words "contribute to *part of [Property 2]*" suggested that the Husband did not pay for the entire cost of [Property 2].

99 On the undisputed evidence of the emails and the cheques, the true dispute between the parties was in respect of the sum of $82,010. The email dated 28 May 2006 supported the Husband's position that he had paid the full

$400,000. While the email dated 28 May 2006 was closer in time to the date on which the property was purchased, I did not think that the email could be afforded conclusive weight. Given the contents of that email, I found that both parties operated on the mutual understanding that the Wife was checking in with the Husband as to her rough tally of the costs. This was evidenced by the numerous "??" scattered throughout the email, suggesting that the Wife was merely consolidating a rough tally of what parties had already paid, and the Husband's subsequent clarification to *correct* the Wife's rough tallies. Furthermore, the contents of that email in respect of the purchase price of $400,000 was not itself supported by further documents such as cheques or bank statements. In contrast, the email dated 9 February 2007 and cheques supported the Wife's position that she had contributed at least $82,010. On the totality of the evidence, I found that it was more likely that the Wife contributed $82,010 to the purchase price of [Property 2].

100 As such, the respective parties' direct contributions were as follows:

S/N	Expense	Husband / $	Wife / $
1.	Purchase Price	317,990	82,010
2.	Legal Fees and Stamp Fees	7,000	2,568
3.	Construction Costs	125,195	194,656
4.	Architects', Surveyors', and Engineers' Fees, Payment to Government Authorities; Fixtures and Furnishings	25,990	74,010
Total direct contribution in acquiring [Property 2] ($829,419)		476,175	353,244
Ratio		57.41%	42.59%

Direct contribution to [Property 2] valued at $2,100,000	1,205,610	894,390

(D) MAZDA CAR

101 Both parties agreed with the Husband's values for the parties' respective direct contributions as follows: $40,000 from the Husband, and $101,988 from the Wife (*ie*, total of $141,988 at the time of purchase). I accepted that this would give a ratio of 28.17% for the Husband to 71.83% for the Wife. Based on the current value of $52,500, I therefore attributed $14,789 and $37,711 to the Husband and Wife's direct contributions respectively.

(3) Ratio (direct contributions)

102 The parties' direct contributions were as follows:

S/N	Asset	Husband / $	Wife / $
1.	Sub-total of agreed direct contribution	4,232,974	1,850,969
2.	[Property 1]	1,781,100	2,718,900
3.	[Property 2]	1,205,610	894,390
4.	Mazda Car	14,789	37,711
Total direct contribution		7,234,473	5,501,970
Ratio		56.80%	43.20%

As such, the direct contribution ratio was 57:43 in favour of the Husband.

Indirect contribution ratio

103 The Husband submitted that the ratio of indirect contributions should be 70:30 in his favour. The Wife submitted that the ratio should be 20:80 in her favour.

104 In relation to indirect contributions, the court considers both indirect financial and non-financial contributions to reach one indirect contribution ratio. Since indirect contributions such as parenting and homemaking are "incapable of being reduced into monetary terms", the values ascribed to such contributions are "necessarily a matter of impression and judgment of the court" (*ANJ* at [24]).

105 The Husband submitted that he made indirect financial contributions by "letting the Wife use his half-share of the rental income from … [Property 2] towards the family's expenses" and "making direct payments for certain expenses". Excluding the costs of the domestic helper, the family's expenses were generally "less or almost equal to the rental income" such that "effectively, the parties were equally bearing these expenses". The Husband also made payments for: rental of [Property 4] during the period from November 2004 to May 2006 for a total of $48,114; purchase of Mitsubishi car for a sum of $74,178; property tax on [Property 2] during the period from February 2005 to June 2020 for a total of $40,595; maintenance works at the parties' properties for a total of $52,123; domestic help during the period from 2011 to 2014 and 2017 for a total of $32,890; holiday expenses; and other miscellaneous household expenses. The Husband therefore submitted that, for indirect financial contributions, a ratio of 60:40 in favour of the Husband was appropriate.

106 The Wife disagreed that the income earned from [Property 2], which was rented out since 2007, should be "construed as [the Husband's] half share of the indirect contributions towards the family" because the Husband used part of the rental income for "his *personal* expenses" and not just the "household expenses" [emphasis in original]. According to the Wife, such personal expenses, which included his air tickets, overseas expenses, personal insurance, personal medical bills and personal investment subscriptions, charged to the Wife's supplementary credit card were never reimbursed for by the Husband. The monthly bill for that supplementary credit card ranged from $442 to $5,700. The credit card expenses were paid for using the "rental income of [Property 2] that she received" and, when the bills exceeded the rental income, the Wife "solely covered it". Such arrangement "continued until May 2017 when the marriage first broke down" and "the supplementary credit card [was] cancelled in 2019 after the marriage broke down for the second time".

107 The Wife also made payments for: household expenses (such as costs of domestic help, utility bills and food); annual family holidays prior to August 2017; generally maintained the family's lifestyle and built the family's "nest egg"; paid $100,000 for the Husband's car; and purchased instruments to support the Children's hobbies. Concerning the Husband's indirect contributions from 2017, the Wife submitted that such contributions were "for an ulterior purpose" and hence should be "disregarded".

108 With respect to the indirect financial contributions such as paying off the general household expenditure, it was not disputed that parties used the rental incomes from [Property 2]. The Wife also did not dispute the Husband's indirect financial contributions in respect of [Property 4]'s rental, property tax and maintenance for the parties' properties.

109 I did not accept the Wife's submission that the Husband's indirect contributions from 2017 onwards "should be disregarded" on the basis that the Husband "desperately wanted a reconciliation, and he did all he could to woo back the [Wife]". The Husband's efforts in reimbursing the Wife and taking the family on trips, even though such efforts were made after the parties faced a difficult time in their marital relationship, nevertheless contributed to the overall welfare of the family. The Husband should therefore be credited for his efforts during that period accordingly.

110 From the above, it was evident that parties' indirect financial contributions varied through the years. On a whole, I accepted that both parties worked together to shoulder the family's expenses which included medical bills, family holidays, the Children's hobbies and maintaining their properties in approximately equal proportions.

111 In respect of indirect non-financial contributions, the Husband submitted that he assumed "most of the duties of a homemaker and the primary caregiver" to the Children. According to the Husband, his flexible work hours "allowed him to carry out various duties" such as regularly "ferrying the Children and the Wife". The Husband also: helped with chores; bought groceries; ensured that there were meals at home for the Children; planned outings for the Children; signed off [C]'s report book; gave a presentation to [C]'s class; liaised with [B]'s teachers; brought [C] on a father-daughter trip in June 2019; and planned for [B] a father-son trip in September 2019 which was eventually cancelled.

112 The Husband also submitted that the Wife's indirect non-financial contribution be reduced "because of her conduct" in "overzealous physical disciplining of the Children that resulted in a [personal protection order] being

granted in 2020". In support of his claim, the Husband relied on *Chan Tin Sun v Fong Quay Sim* [2015] 2 SLR 195 ("*Chan Tin Sun*"). While the Husband accepted that the Wife's "misconduct [was] not as serious as that in the *Chan Tin Sun* case", he was of the view that such conduct was sufficiently serious to warrant a reduction of her indirect non-financial contribution due to the personal protection order in favour of the Husband and the Children.

113 The Wife submitted that the Husband spent "substantial amounts of time away from home", even during key events such as the Wife's final month of pregnancy in 2005 and shortly after the Wife had given birth to [B]. The Husband responded that he had "travelled for a total … of 409 days …, which is equivalent to 7% of the time". According to the Wife, she: was the "[p]rimary caregiver of the Children and sole parenting for at least 6 months" after the birth of the Children and in 2010 when the Husband travelled to settle his late father's estates; supported the Husband "throughout his myriad of unsuccessful business ventures"; supported the Husband "when his relationship with [B] broke down in 2017"; emotionally supported the Husband "as he struggled to find full-time employment"; and cared for the Children when the Husband "suffered a mental breakdown in mid-2017 and flew to Perth, Australia to seek treatment".

114 The parties agreed that the engagement of a domestic helper did not detract from each party's contributions to managing the household as a whole (*Pang Rosaline v Chan Kong Chin* [2009] 4 SLR 935 at [20]). As such, each party was credited for their respective contributions in managing the household throughout the marriage regardless of whether the parties had employed domestic help. The parties also agreed that the Husband was abroad on multiple occasions throughout the marriage.

115 From the foregoing, it was evident that parties' indirect contributions varied through the years. I accepted that the Wife had, on multiple occasions, acted as the sole caregiver to the Children when the Husband was abroad for weeks at a time. In addition, the Wife supported the Husband and the Children during the trying periods of the marriage such as when the Husband's businesses did not come to fruition. In the Husband's letter to the Wife dated 3 August 2017, the Wife had "[t]hrough it all, … stood by [him]" and is a "fabulous mother and wife" whose "great motherly love and sacrifice for [their] son to achieve greatly for his PSLE proves thus". Still, the Husband could not be said to have been largely absent in the marriage and contributed little to the welfare of the family. On the facts, I found that the Husband did meaningfully utilise his free time to contribute to the welfare of the family by managing the Children's schedules and ferrying them in between activities. Taking a broad brush approach, I found that the ratio of parties' indirect contributions to the marriage was approximately 55:45 in favour of the Wife. The assignment of the ratio for indirect contributions is not a mathematical science. The Court of Appeal in *USB* has explained (at [43]):

> … the broad-brush approach should be applied with particular vigour in assessing the parties' *indirect* contributions. This would serve the purpose of discouraging needless acrimony during the ancillary proceedings. Practically, this means that, in ascertaining the ratio of indirect contributions, the court should not focus unduly on the minutiae of family life. Instead, the court should direct its attention to broad factual indicators when determining the ratio of parties' indirect contributions. These would include factors such as the length of the marriage, the number of children, and which party was the children's primary caregiver.
>
> [emphasis in original]

116 I did not accept the Husband's submission that the Wife's indirect non-financial contribution should be reduced. I did not think that the legal principle established in *Chan Tin Sun* was applicable on the present facts. In that case, a

negative value of 7% was ascribed to the wife's indirect contributions due to her rather extreme misconduct in systematically poisoning the husband for at least one year. The threshold to be met is thus a high one and conduct must be both extreme and undisputed (*Chan Tin Sun* at [25]). Such high threshold was not satisfied on the facts of the present case.

Average and final ratio

117 Applying the *ANJ* approach, which is a broad brush approach, I found that the average ratio was approximately 50:50, worked out as follows:

Ratios	**Husband**	**Wife**
Direct Contribution Ratio	57	43
Indirect Contribution Ratio	≈ 45	≈ 55
Average Ratio	≈ 50	≈ 50

118 I found that an equal division of assets was indeed just and equitable on the facts of this case. This was a marriage where parties recognised their independence and that assets external to the marriage such as pre-marriage gifts need not be divided on divorce, but during the marriage, they cooperated and built their family and wealth together using various resources and by various efforts.

Conclusion

119 The total pool of matrimonial assets valued at **$13,233,139** was to be divided equally between the parties.

120 The parties should work out the consequential orders. If they are able to come to an agreement on them, they may send a draft to the court for approval, indicating their consent before extracting the order. The parties shall have the

liberty to apply to court, should they be unable to come to an agreement on the consequential orders.

121 I made it clear that these orders on the division of assets are final; thus for purposes of the filing of an appeal against these orders, the date of my judgment in respect of these orders is 23 March 2021.

122 The matter of costs shall be agreed between the parties, and if not agreed, they are at liberty to write into the court for directions in respect of costs. Parties should seriously consider the option of bearing his or her own costs in respect of this AM matter.

123 When I delivered this decision, I also directed that the parties should also write to alert the court if they perceive any factual or typographical errors, in computations or otherwise, on the various figures stated, within one week from the date of the decision.

Debbie Ong
Judge of the High Court

Chiok Beng Piow and Teo Jun Li, Tania (JHT Law Corporation) for the plaintiff;
Yap Teong Liang, Tan Hui Qing (T L Yap Law Chambers LLC) (instructed), Lee Yuan Yu and Chen Yiyang (Tan Kim Seng & Partners) for the defendant.