IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2021] SGHCF 22

District Court Appeal No 111 of 2020 and Summons No 65 of 2021

Between

VPH

… *Appellant*

And

VPI

… *Respondent*

In the matter of Divorce Suit No 4775 of 2018

Between

VPH

… *Plaintiff*

And

VPI

… *Defendant*

ORAL JUDGMENT

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

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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.

VPH
v
VPI

[2021] SGHCF 22

General Division of the High Court (Family Division) — District Court Appeal No 111 of 2020 and Summons No 65 of 2021
Mavis Chionh Sze Chyi J
3 May, 21 July 2021

21 July 2021 Judgment reserved.

Mavis Chionh Sze Chyi J:

Introduction

1 The appellant ("the husband") appealed against the decision of the District Judge (the "DJ") made on 6 November 2020, in which the DJ made orders concerning the division of matrimonial assets with the respondent ("the wife") and also ordered the husband to pay a lump sum maintenance of $60,000.00 to the wife. In Summons No 65 of 2021 ("SUM 65"), the husband sought to adduce further evidence on appeal in order to show that his income had been adversely affected by the COVID-19 pandemic and that he had made financial contributions to a property in the wife's sole name at Grandeur Park Residences (the "Grandeur Park property"). During the hearing on 3 May 2021, I allowed the application to adduce fresh evidence before the hearing of the main appeal in District Court Appeal No 111 of 2020 ("DCA 111").

Facts

2 The husband and wife were married on 11 November 2007. There are no children to the marriage. Parties began living separately from February 2017.

3 The husband filed a writ for divorce on 15 October 2018 and the wife filed a defence and counterclaim on 7 November 2018. Interim judgment ("IJ") was granted on 30 May 2019. In all, the marriage lasted somewhat over nine years before the parties separated, and it was dissolved two years later.

Background of the parties

4 At the time of the hearing before the DJ, the husband was 55 years old and the wife was 40. The husband is an airline captain while the wife is a customer relationship coordinator with a trading company. Based on their 2019 Notice of Assessment ("NOA"), the husband earned a gross monthly salary of $27,356.83[1] while the wife earned a gross monthly salary of $6,613.50.[2] It is not disputed that the wife's salary has been on the rise since she took on a permanent role with her present company in August 2014.[3] This is evidenced from her NOAs, which show a rise in her gross monthly salary from $5,043.92 for NOA 2016[4] to her gross monthly salary of $6,613.50 in NOA 2019.

5 At this juncture, it should be noted that the wife was also working for the period of April 2009 to June 2012.[5] While the wife appeared to downplay

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1 Record of Appeal ("RA") Vol I dated 24 March 2021 at p 156.

2 RA Vol I at p 200.

3 RA Vol I at p 180 and 188.

4 RA Vol I at p 197.

5 RA Vol I at pp 178–179.

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her earnings during this period,[6] her CPF contributions paint a different picture. From around August 2009 to June 2012, she received regular and not insignificant CPF contributions from her employers. In that same period, her CPF balance grew from $20,020.41 in January 2010 to $86,421.00 in December 2012.[7] On her own account, during this time, she was given an award for being the "top rookie" salesperson and was even sent by her company to Germany twice for training.[8] As such, I do not accept the wife's contention that she "gave up her youth and career progression" for about 7 years of the marriage.[9] Instead, I find that she was in gainful employment for a considerable part of the marriage and that the time she spent out of employment was closer to a period of around four years (two years in the initial years of the marriage and two years between 2012 and 2014).[10] From the evidence before me, I also find that she is clearly someone with ambition and a strong work ethic, who has shown herself capable of improving her career prospects and earning capacity over time.

6 As for the husband, I accept that his income has been affected by the onset of the COVID-19 pandemic. Based on the husband's table of income exhibited in his affidavit,[11] his net monthly salary for the period of April 2019 to February 2020 is $31,083.55. For the same period the following year, *ie*, from April 2020 to February 2021, his net monthly salary is $16,893.11.

7 This does not reflect his gross monthly salary as it excludes certain deductions such as employee CPF contributions. If his employee CPF

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6 W's Case dated 26 April 2021 at pp 8–9; RA Vol I at p 179.

7 RA Vol I at pp 480–483.

8 RA Vol I at p 179.

9 W's Case at para 105.

10 RA Vol I at pp 480–485.

11 H's Affidavit dated 22 March 2021 at para 8.

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contributions were to be included, his gross monthly salary for the period of April 2019 to February 2020 would be around $32,707.55 while his gross monthly salary for the period of April 2020 to February 2021 would be around $18,565.29. While I accept that the husband's income has been affected by the COVID-19 pandemic, I also accept the wife's submission that the husband's salary – even taking into account the impact on his salary brought about by the COVID-19 pandemic – is still not insubstantial. Insofar as the husband seeks to persuade me that his income earning capacity is *severely* affected, I am unable to accept his submission. This is quite different from the situation in *Lock Yeng Fun v Chua Hock Chye* [2007] 3 SLR(R) 520 ("*Lock Yeng Fun*"), for example, where the Court of Appeal found at [21] that the respondent's age coupled with his physical disabilities (arthritic limbs and vision problems) meant that he had "little or almost no prospect of a higher earning capacity". The respondent in that case also had no tertiary education. The Court of Appeal noted that the respondent's monthly income of approximately $600 to $800 could "hardly be considered a steady source of revenue". In the present case, notwithstanding the impact of the COVID-19 pandemic, the evidence before me indicates that the husband still has a relatively comfortable and steady source of income. On his own account, he worked hard to achieve "his successful education as an Engineering degree holder of the National University of Singapore and successful career in the aviation sector".[12] There is no suggestion that he suffers from any physical disabilities. At 55 years of age, I would not consider him to be someone who is decrepit or well past his prime. In the circumstances, though his income has presently been reduced because of the challenges facing the aviation industry, I consider that he still has a fairly high earning capacity.

[12] H's Case dated 24 March 2021 at para 56.

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Arguments Below

8 In the proceedings below, the husband submitted that the ratio of the parties' direct contributions to the matrimonial assets should be 80:20 in his favour while their indirect contributions should be 70:30 in his favour. The husband submitted for the average ratio to be 75:25 in his favour. Taking $1,779,295.80 as the size of the pool of matrimonial assets, he submitted that $1,334,471.80 (75%) should go to him and $444,824.00 (25%) to the wife.[13] He asked that the court make an order of no maintenance for the wife.[14]

9 As for the wife, she submitted in the proceedings below that the total pool of matrimonial assets was $2,475,619.27.[15] According to her, the ratio of the parties' direct contributions to the matrimonial assets should be 81.6:18.4 in the husband's favour, while their indirect contributions should be 70:30 in her (the wife's) favour. In addition, the wife argued that adverse inferences should be drawn against the husband which should result in an uplift of 20% in her favour.[16] On the wife's case below, therefore, the average ratio should be 55.8:44.2 in favour of the husband.[17] The wife also submitted that she should be paid maintenance at $800 a month (the wife did not state a fixed duration for which maintenance should be paid).[18]

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13 Record of Appeal ("RA") Vol II dated 24 March 2021 at p 674.

14 RA Vol II at p 677.

15 RA Vol II at p 639.

16 RA Vol II at p 623, para 57.

17 RA Vol II at p 642.

18 RA Vol II at p 613 and 632–633.

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Decision Below

10 After hearing the evidence adduced and the parties' submissions, the DJ made the following orders (as summarised at [7] of her Grounds of Decision ("GD") in *VPH v VPI* [2021] SGFC 17):

(a) The matrimonial home at Flora Drive (the "Flora Drive property") is to be retained solely by the husband, but the husband is to allow the wife to continue residing at the Flora Drive property until an additional 3 months from the official Temporary Occupation Permit of Grandeur Park Residences. The husband is to continue to pay the mortgage and related MCST charges, while the wife is to pay for the utilities whilst she resides at the Flora Drive property;

(b) The Grandeur Park property and a property in Penang (the "Penang property") is to be retained by the wife in her sole name. The husband shall pre-sign any and all documents that are necessary to effect the sale and/or redemption of the Penang property within 7 days of written request being made;

(c) A property in Australia (the "Australian property") is to be retained by the husband in his sole name. The wife shall pre-sign any and all documents that are necessary to effect the sale and/or redemption of the Australian property within 7 days of written request being made;

(d) The wife shall be entitled to $200,000.00 of the husband's CPF moneys in his ordinary account;

(e) The husband is to pay the wife a lump sum maintenance of $1,000.00 a month for five years, *ie*, $60,000.00. Payment is to be made

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in two equal instalments of $30,000.00 each by 31 December 2020 and 30 June 2021;

(f) Each party is to retain their own assets in their own names; and

(g) Each party is to bear their own costs.

11 With regard to the division of matrimonial assets, the DJ referred to the structured approach of the Court of Appeal ("CA") in *ANJ v ANK* [2015] 4 SLR 1043 ("*ANJ*"). However, although the DJ proceeded to identify the *main* assets of the parties (see [11] of the GD), she did not identify *all* the assets, some of which were of substantial value and disputed by parties. The DJ also did not value any of the assets. It is not clear from the GD what assets were in the matrimonial pool and what the total value of the pool of matrimonial assets was. With respect, this is unsatisfactory, especially given the divergence in the parties' positions as to the assets and size of the matrimonial pool (see [8]–[9] above).

12 It is also not clear from the GD why the DJ did not apply the *ANJ* structured approach. This approach would have involved the court first arriving at "a ratio that represents each party's direct contributions relative to that of the other party, having regard to the amount of financial contribution each party has made towards the acquisition or improvement of the matrimonial assets": *ANJ* at [22]. Second, the court would consider the parties' indirect contributions and ascribe a second ratio which represents the contributions of each party to the family's well-being relative to the other. Thirdly, the court derives an average percentage contribution for each party, at which point further adjustments may be made to account for other considerations: see *ANJ* at [27]. As far as I can tell from the GD, none of this was done. I am not certain why this was so, as both

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parties in this case actually adopted the *ANJ* approach in their submissions before the DJ.

13 Before me, counsel were again agreed that the structured approach espoused by the CA in *ANJ* should be followed. I have no doubt that the *ANJ* approach is applicable in the present case, given that parties were in a "Dual-Income Marriage", *ie*, for the most part, both spouses were working during the marriage and it was not a situation where one spouse was the sole income earner while the other played the role of homemaker (see the CA decision in *TNL v TNK and another appeal and another matter* [2017] 1 SLR 609 at [42]–[43]). As such, the analysis which follows will apply the *ANJ* approach.

Appellant's Case and Respondent's Case

14 At the hearing on 3 May 2021, in addition to allowing the husband's application to adduce further evidence, I asked parties to file a joint summary. The joint summary was filed on 17 June 2021 ("Joint Summary"); and each party has accepted that the Joint Summary represents his or her binding position.

15 As a general position, all matrimonial assets and liabilities should be identified at the time of the IJ, *ie*, 30 May 2019 and valued at the time of the first ancillary matters ("AM") hearing, *ie*, 16 July 2020. Both parties in this case are agreed that in general, the date for ascertaining the pool of matrimonial assets is the IJ date and the date for valuing those assets is the date of the AM hearing (or closest to that date).[19]

16 Based on the Joint Summary, the husband's case is as follows:

[19] Joint Summary ("JS") dated 17 June 2021 at p 5.

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(a) The total pool of matrimonial assets is $1,757,822.05;[20]

(b) The husband computed parties' direct contributions to the matrimonial assets to be 71.5:28.5 in his favour. As for indirect contributions, he contended the ratio should be 95:5 in his favour;[21]

(c) He then derived an average ratio of 83.25:16.75 in his favour[22] but further submitted that an uplift of 6.76% should be applied in his favour, to take into account the benefit derived by the wife from her staying in the Flora Drive property rent free (3.76%) and also her alleged lack of full and frank disclosure (3.00%).[23] According to the husband, therefore, the final ratio should be 90:10 in his favour;

(d) Following from this final ratio, the husband submitted that the wife was entitled to only $175,782.20 (10%) of the matrimonial pool of $1,757,822.05.[24] Separately, on another computation, the husband submitted that if the full value of the Flora Drive property ($800,899.63) were to be included into the matrimonial pool, the wife's share of the matrimonial pool would decrease to $160,945.51, being the wife's entitlement (7.79%) of the matrimonial pool of $2,066,052.75.[25] It should be noted that the figures argued for on behalf of the husband on appeal differ *substantially* from the husband's position in the proceedings below, where he had computed the wife's share to be

20 JS at p 23.

21 JS at p 72.

22 JS at p 72.

23 JS at p 58.

24 JS at p 72.

25 JS at p 74.

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$444,824.00 (25%) out of the matrimonial pool of $1,779,295.80 (see [8] above);

(e) As regards maintenance, the husband submitted that the wife "had already been adequately … maintained and should not be entitled to any further [maintenance]". Even if the court were minded to grant maintenance, the husband submitted that "the period of 5 years should be shortened to 1 year [and thereafter] backdated to February 2017".[26]

17 As for the wife, she submitted that the DJ's order of lump sum maintenance (see [10(e)] above) was fair and reasonable, taking into account her monthly expenses of around $6,423.00 a month.[27] As for the division of matrimonial assets, she submitted that the total pool of matrimonial assets should be $2,329,616.18;[28] and that the DJ's decision to award her assets which she (the wife) averred to be valued at $781,019.29 (or about 33% of the total value of the pool of matrimonial assets as computed by the wife) was just and equitable.[29] This sum of $781,019.29 includes $200,000.00 of the husband's CPF moneys (see [10(d)] above).[30] Before me, therefore, the wife argued that the husband's appeal should be dismissed.

Issues before this court

18 The matters that arise for determination in this appeal are the division of matrimonial assets, maintenance for the wife and costs. As mentioned earlier (at

26 H's Case at paras 21B–21C.

27 W's Case at para 31; JS at pp 82–89.

28 JS at p 23.

29 JS at p 73.

30 W's Case at paras 134–135.

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[11]-[13] above), it is not clear why the DJ did not identify and value all the matrimonial assets. It is also not clear why the DJ did not apply the *ANJ* structured approach when dividing and apportioning the matrimonial assets. With respect, I find the DJ's approach to be wrong in principle and unsupported by authority. As such, I will proceed to deal with the division of the matrimonial assets using the *ANJ* structured approach, before dealing with the issues of maintenance for the wife and costs.

Division of matrimonial assets

19 I first consider the division of the parties' matrimonial assets under s 112(1) of the Women's Charter (Cap 353, 2009 Rev Ed) ("WC"). In the present case, I adopt the global assessment methodology for dividing matrimonial assets, as set out in *NK v NL* [2007] 3 SLR(R) 743 at [31]. This comprises four distinct steps: identification, valuation, division and apportionment of the matrimonial assets. This was also the approach adopted by the parties in this case.

Identification and valuation of matrimonial assets

Agreed assets

20 There are a number of assets whose inclusion into the pool of matrimonial assets and whose values are largely not disputed. Based on the Joint Summary, I set out the value of each asset in the table below:

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S/N	Description	Value
Joint Assets		
1	Australian property	$48,666.00[31]
Husband's Assets		
2	Audi A8	$95,000.00
3	POSB Account number ending 513 ("Account -513") as at 23 July 2019	$31,668.42
4	POSB Account number ending 540 ("Account -540")	$0
5	UOB Account number ending 4652 ("Account -4652") as at 23 July 2019	$56,784.95
6	UOB Account number ending 455 ("Account -455") as at 23 July 2019	$5,185.42[32]
7	UOB Account number ending 055 ("Account -055") as at 23 July 2019	$85,094.74
8	ANZ Savers Account	$13,530.00
Wife's Assets		
9	Penang property as at August 2020	$105,066.71[33]
10	Mini Cooper	$62,000.00
11	OCBC Account number ending 001 ("Account -001") as at January 2020	$45,571.03
12	UOB Account number ending 484 ("Account -484") as at July 2019	$4,561.92

[31] RA Vol II at p 689.

[32] RA Vol I at p 142.

[33] H's Case at para 48; W's Case at p 108.

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13	UOB Account number ending 137 ("Account -137") as at July 2019	$448.81
14	Citibank (Malaysia) Flexi Home Loan Account as at July 2019	$1,372.88
15	CIMB Account number ending 6154 ("Account -6154") as at July 2019	$405.53
16	Manulife Policy as at July 2019	$14,208.74
17	Wife's shares	$56,946.90
18	CPF Savings as at 23 July 2019	$147,264.16[34]

21 For the Penang property, I adopt the husband's valuation as at August 2020 of $105,066.71.[35] The Wife does not dispute that the value of the Penang property is RM530,000.00 ($176,666.67). In the wife's affidavit in the proceedings below dated 19 August 2019, she declared the outstanding mortgage on the Penang property to be approximately RM240,000.00 ($79,000.00)[36] and the monthly mortgage payment to be approximately RM1,850.00 ($616.67).[37] Absent evidence on the outstanding mortgage for the Penang property as at August 2020, and given that parties agree on two other properties (*ie*, the Flora Drive property[38] and the Grandeur Park property)[39] being valued as at August 2020, I find that the husband's valuation of $105,066.71 best approximates the value of the Penang property as at August 2020 (being $176,666.67 - $79,000.00 + ($616.67 x 12)).

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34 RA Vol I at pp 168 and 221.

35 JS at p 22.

36 RA Vol I at p 164.

37 RA Vol I at p 166.

38 H's Case at para 35.

39 JS at p 21.

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22 Secondly, for the wife's CPF savings, I took the value of her CPF savings to be its value as at 23 July 2019 to ensure consistency with the agreed date of valuation of the husband's CPF savings.[40] I see no reason in principle to adopt a different date of valuation for the wife's CPF savings vis-à-vis the husband's CPF savings. As such, I include the value of the wife's CPF savings of $147,264.16 (consisting $49,003.51 in her ordinary account, $47,491.63 in her special account and $50,769.02 in her medisave account) as at 23 July 2019 into the pool of matrimonial assets.[41]

Disputed assets

23 I turn to the remaining assets. Aside from arguments pertaining to adverse inferences and dissipations, parties disagreed over the size of certain matrimonial assets which should be included into the matrimonial pool.

(1) Flora Drive property

24 Dealing first with the Flora Drive property, both parties agree that its value as at August 2020 is $800,899.63.[42] Both parties also agree that the Flora Drive property is the matrimonial home.[43] In his written submissions in the proceedings below, the Husband referred to the Flora Drive property as the matrimonial home.[44] In this appeal, the husband also did not challenge the DJ's finding that the Flora Drive property was the parties' matrimonial home. Where

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[40] JS at pp 8–9.

[41] RA Vol I at pp 168 and 221.

[42] H's Case at para 35; W's Case at p 109.

[43] JS at p 8.

[44] See for *eg*, RA Vol II at pp 584 and 604.

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they disagree is as to the value of the Flora Drive property which should be included into the matrimonial pool.

25 The starting point is s 112(10) of the WC which provides as follows:

> **Power of court to order division of matrimonial assets**
>
> **112.**—(1) …
>
> (10) 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.

26 Under s 112(10) of the WC, a matrimonial home would be regarded as a matrimonial asset. Once a court deems a property to be a matrimonial home, the entire value of that property – assessed as at the AM date – will go into the pool, notwithstanding when and how it was acquired (see *USB v USA and another appeal* [2020] 2 SLR 588 ("*USB (CA)*") at [19(a)]).

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27 The husband's reliance on the High Court decision in *USA v USB* [2020] 4 SLR 288 is, with respect, misplaced.[45] In that case, Tan Puay Boon JC at [72] set out a formula for calculating the portion of the net value of pre-marriage properties to be included in the asset pool. However, this formula was in respect of pre-marriage properties which were *not* the matrimonial home. Tan JC made it clear that the matrimonial home, *ie*, the Sunrise Close Property (in that case), was to be distinguished from other pre-marriage properties – and he included the full net value of the Sunrise Close Property into the pool (see [44]). The CA affirmed Tan JC's decision in this regard and noted at [62] that "[t]he Sunrise Close Property was a matrimonial asset only by virtue of its status as the matrimonial home. As a result, its *full value* was included in the pool *notwithstanding the fact that it was acquired prior to the marriage*" [emphasis added].

28 It being undisputed that the Flora Drive property is the matrimonial home, there is no basis for the husband's contention that a portion of the net value of the Flora Drive property, corresponding to its net value acquired prior to marriage, should be excluded from the pool. Accordingly, I include the full net value of the property into the pool of matrimonial assets, *ie*, $800,899.63.

(2) Grandeur Park property

29 Dealing next with the Grandeur Park property, the husband disputed the value of the said property in the Joint Summary. The husband claimed that its "market value increased to around $788,888" as at the date of the AM hearing, even though its purchase price was $601,000.[46] In support of his claim that the

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45 JS at p 16.

46 JS at p 21–22.

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market value of the Grandeur Park property had increased, the husband relied on screenshots of an enquiry with a property agent advertising the Grandeur Park property.[47] He submitted that these screenshots should be relied on, as "[t]he price of $788,000 was what Wife herself was asking for, which means that she was aware that the value of her unit was in that range".

30 I am unable to accept the husband's submission. Even if I were to accept that the wife was advertising the Grandeur Park property for $788,000 and that similar units were advertised at around or above that price,[48] I do not see how that necessarily translates into the market value of the Grandeur Park property as at the date of the AM hearing being around $788,888. I note that no valuation was done on the Grandeur Park property. Without more, I decline to draw the inference that the *advertised prices* of the Grandeur Park property and/or similar properties must mean that the *market value* of the Grandeur Park property as at the date of the AM hearing had increased to around $788,888. The fact that the wife herself was advertising her unit for such prices does not go very far in assisting the husband in establishing the market value of the Grandeur Park property as at the date of the AM hearing. Further, I note that the husband appeared to have dropped this argument in the proceedings below[49] and it was also conspicuously absent in his Appellant's case. In fact, it was the husband who had first computed (for the purposes of this appeal) the net value of the Grandeur Park property as at August 2020 and valued it at $126,883.28.[50] As such, I accept the Wife's submission that the net value of the Grandeur Park

47 RA Vol II at pp 128–129.

48 RA Vol II at p 129.

49 RA Vol II at pp 554, 646 and 694.

50 H's Case at para 42.

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property as at August 2020 is $126,883.28 and I include this value into the pool of matrimonial assets.

(3) Husband's CPF Savings

31 As for the husband's CPF savings, the value of his CPF savings as at 23 July 2019 is $605,367.13 (consisting of $300,094.12 in his ordinary account, $248,953.87 in his special account and $56,319.14 in his medisave account).[51] Based on the husband's CPF statement of account for 2007, his CPF savings before marriage as at 31 October 2007 is $93,948.95 (consisting of $945.48 in his ordinary account, $59,503.47 in his special account and $33,500 in his medisave account).[52] The wife did not dispute the husband's account that $358,017.57 (consisting of a transfer of $354,567.26 into his ordinary account and $3,450.31 into his special account) was transferred into his CPF account in February 2008, following the sale of his former matrimonial property from his first marriage (see [43] of the GD).[53] It was also not disputed that this sum was acquired before marriage, even though the transfer was during the marriage.[54] The husband submitted that the value of his CPF savings to be included in the matrimonial pool should exclude sums he had accumulated before marriage, consisting of the sums of $93,948.95 and $358,017.57.

32 As a starting point, I accept that $96,453.78 of the husband's CPF savings (comprising $59,503.47 in his special account and $33,500 in his medisave account as at 31 October 2007 and $3,450.31 transferred into his special account in February 2008 following the sale of his former matrimonial

51 RA Vol I at p 162.

52 RA Vol II at p 201.

53 JS at pp 8–9; RA Vol II at p 155.

54 W's Case at paras 153–154.

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property) should be excluded from the pool of matrimonial assets. This sum was acquired by the husband before marriage and would not be a matrimonial asset (see s 112(10) of the WC at [25] above).

33 As for the $945.48 which the husband had in his ordinary account before marriage, his 2007 CPF statement of account shows that it was used to pay the mortgage on the Flora Drive property.[55] Given that this sum has already been used to pay for the parties' matrimonial home, there is no basis for the husband's claim that part of his present ordinary account balance of $300,094.12 comprise this $945.48 which he had accumulated before marriage.

34 I address next the $354,567.26 which was transferred into the husband's ordinary account in February 2008. Given that the balance in the husband's ordinary account as at 23 July 2019 was $300,094.12, it is clear that at least $54,473.14 ("this Amount") of the original sum of $354,567.26 was no longer present in the ordinary account as at that date. It is not clear from the husband's submissions what his position is as to where this Amount went to, and why the ordinary account balance to be included into the pool of matrimonial assets should be a negative value. Looking at the CPF statement of accounts tendered by the husband,[56] these reflected that moneys from his ordinary account were used to pay (a) for the mortgage for the Flora Drive property; and (b) for DPS (*ie*, Dependants' Protection Scheme).[57] Insofar as part of this Amount was used to pay (a), it will have been dealt with in the analysis of the Flora Drive property above at [28]. As mentioned earlier, given its status as the matrimonial home, the full net value of the Flora Drive property should be included into the pool

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55 RA Vol II at p 201.

56 See for *eg*, RA Vol II at pp 144-145.

57 RA Vol II at p 147.

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of matrimonial assets. Insofar as part of this Amount was used to pay (b), it will be dealt with in the analysis of the husband's insurance policies at [38] below. Given my finding that the wife has not shown the DPS to have a quantifiable net value, any question of excluding its value from the pool of matrimonial assets is moot (since no value was included into the pool in the first place). To sum up, therefore, on the evidence available, I see no basis for excluding the sum of $54,473.14 from the matrimonial pool.

35 Nor can I find any basis for the contention that a negative value should be accorded to the balance in the husband's ordinary account. In respect of the remaining $300,094.12 in his ordinary account as at 23 July 2019, the husband's argument appears to be that this entire sum should be excluded from the pool as they were accumulated pre-marriage, *ie*, this entire sum originated *solely* from the $354,567.26 transferred into his ordinary account in February 2008. To succeed in his argument, the husband must show that the mortgage payments for the matrimonial home and other disbursements from his ordinary account would *first* come from his CPF savings accumulated *during* the marriage, and only in the event of a shortfall would such payments *then* come from his CPF savings accumulated before marriage. Again, there is no basis for such a finding. Instead, I find that once the proceeds of $354,567.26 from the sale of the husband's former matrimonial property was transferred into his ordinary account and commingled with existing and subsequent ordinary account moneys (which were matrimonial assets), they were no longer separately identifiable (see the decision of Debbie Ong J in *UYP v UYQ* [2020] 3 SLR 683 at [14]). Put another way, since the proceeds transferred into the husband's ordinary account have been commingled with other moneys in the ordinary account which were matrimonial assets, it is not possible to ascertain with certainty which moneys were used in each transaction where moneys were disbursed from his ordinary account (see Choo Han Teck J in *VJR v VJS and*

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another matter [2021] SGHCF 10 at [24]). In any event, I find that the husband had the intention to use the proceeds for the family by way of paying down the mortgage on the matrimonial home. I therefore do not deduct any portion of the $300,094.12 in the husband's ordinary account from the matrimonial pool.

36 In sum, I add the value of $508,913.35 (comprising $300,094.12 in the husband's ordinary account, $186,000.09 in his special account and $22,819.14 in his medisave account) into the pool of matrimonial assets. I derive this value by deducting the sum mentioned at [32] ($96,453.78) from the value of the husband's CPF savings as at 23 July 2019 ($605,367.13) (see [31] above).

(4) Husband's insurance policies

37 I also add the value of $26,294.23 into the matrimonial pool. This comprises (a) $6,172.00, which the husband averred in the proceedings below represented the surrender value of a Prudential policy he purchased during the marriage,[58] and (b) $20,122.23, which the husband submitted in the proceedings below represented the pro-rated surrender value of an AIA policy which he purchased before marriage.[59] I therefore do not accept the husband's present submission that his insurance policies ought to be excluded as they have no surrender values as at the date of hearing.[60] I also do not accept the husband's revised submission in his Joint Summary that the value of the Prudential policy ought to be excluded because the present surrender value was less than the premiums he had paid.[61] As the husband himself acknowledged, when valuing insurance policies, the courts generally take the surrender value of the policies

58 RA Vol I at p 51; RA Vol II at p 657.

59 RA Vol II at p 659.

60 H's Case at para 65.

61 JS at pp 12–13.

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as at the date of the AM hearing or any other date agreed by the parties (see *UTS v UTT* [2019] SGHCF 8 at [19]). I find no basis for the husband's approach, *ie*, that the net value of a policy is its surrender value less premiums paid to date.

38 As for the husband's Dependants' Protection Scheme ("DPS"), I reject the wife's submission that the value of $46,000, representing the sum assured, should be included into the pool of matrimonial assets.[62] There is no basis to adopt the wife's approach as the wife has not shown how the sum assured represents the net value of the husband's DPS. In fact, counsel for the wife conceded in the proceedings below that "DPS is not a liquid insurance [policy]".[63] It is therefore not clear to me why the wife has decided to belatedly revive this argument which I find to be wholly unmeritorious.

Alleged dissipations and adverse inference

39 I next address each party's allegations of lack of full and frank disclosure of assets and/or dissipation of assets by the other and their arguments for adverse inferences to be drawn against each other. In *UZN v UZM* [2021] 1 SLR 426 ("*UZN*"), the CA set out at [18] (citing *BPC v BPB and another appeal* [2019] 1 SLR 608 at [60]) that an adverse inference may be drawn where:

(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.

62 JS at pp 11–12.

63 RA Vol I at p 51.

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(1) Wife's Account -6154

40 Dealing first with Account -6154, I first note that it is not true that the wife did not provide *any* bank statements of Account -6154.[64] As the wife pointed out, she did provide a bank statement of this account dated 20 July 2019.[65] In the Joint Summary, the husband appeared to acknowledge as much, *ie*, that the wife did provide bank statements of the said account to him. Instead, he appeared to have changed his submission to the fact that the wife did not provide *all* the bank statements, when she could have acquired them on her trips back to Malaysia.[66] Quite apart from the fact that the husband's original position (that the wife did not provide *any* bank statements) is factually inaccurate, I do not think that the mere failure of the wife to provide *some* bank statements of Account -6154, without more, warranted the drawing of an adverse inference. I note in this regard that the CA cautioned in *UZN* at [21] that an adverse inference ought not to be easily drawn against a party unless both the criteria for the drawing of an adverse inference are satisfied (see [39] above).

(2) Wife's Account -521

41 As for the husband's allegation that an adverse inference should be drawn as the wife failed to disclose CIMB Account number ending 521 ("Account -521") in any of her affidavits, the wife responded to the allegation by explaining that she had disclosed both of her accounts with CIMB.[67]

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64 JS at p 44.

65 RA Vol I at p 291.

66 JS at pp 44–45.

67 JS at p 56.

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42 In reply, the husband's argument appeared to shift from one of adverse inference due to non-disclosure to one of dissipation, *ie*, the husband contended that "[t]here is no indication as to where the monies … went to and if they were transferred to her current CIMB accounts or kept elsewhere. The whereabouts of these funds remain a mystery" [emphasis in original]. The moneys which the husband was referring to appeared to be various remittances totalling RM 79,654.35 ($33,300) from 2007 to 2013.[68] I do not think that the transfers by the wife as evidenced from the remittance receipts gave rise "to a *prima facie* case of concealment of assets or wrongful dissipation (with the intention to put assets out of reach of the other party) … as it is difficult to believe that the parties would have intended to withdraw assets for the purpose of concealing or putting them out of reach of the other spouse during a time when their marital relationship was still functioning" (see *UZN* at [66]).

43 I add that the transfers as evidenced from the remittance receipts appear to be legitimate. The amounts reflected in the remittance receipts coupled with what the wife termed as "INSTAREM transaction receipts"[69] support her account that she regularly transferred moneys to Malaysia to "pay for the mortgage instalments for the Penang Apartment, maintenance fees for the Penang Apartment, as well as for [her] parents' allowance as they live in Malaysia".[70] In the circumstances, I do not think that there is sufficient evidence which warranted the drawing of an adverse inference against the wife.

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68 JS at p 56–57; RA Vol I at pp 518–532.

69 RA Vol I at pp 513–517.

70 RA Vol I at p 422, para 47.

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(3) Wife's UOB Accounts

44 The husband also submitted that adverse inferences should be drawn against the wife in respect of 3 UOB accounts, namely UOB Account number ending 8652, Account -484 and Account -137.[71]

45 As a preliminary point, in respect of UOB Account number ending 8652, the husband did not elaborate in his Appellant's Case why an adverse inference should be drawn in respect of this account.[72] In any event, I note that the husband appears to have subsequently jettisoned this submission: in the Joint Summary he did not seek the drawing of an adverse inference in respect of UOB Account number ending 8652. As for Account -484, the Husband's initial submission was that statements "were not provided, save for May 2019 …, June 2019 … and July 2019".[73] The wife pointed out that this was inaccurate as she had provided voluntary disclosure of monthly bank statements for 4 years from May 2015 to December 2019 and had in fact tendered hard copies to the DJ and the husband's former solicitors at the hearing below. After this was pointed out by the wife, the husband's argument morphed to one of *late* rather than *non*-disclosure.[74] However, the husband has not explained why this late disclosure, if at all, should result in the drawing of an adverse inference against the wife. As such, I decline to draw an adverse inference in respect of these accounts.

46 I now turn to Account -137. Dealing first with the husband's argument that an adverse inference ought to be drawn on the basis that the wife had for many years during the marriage failed to update her residential address with the

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71 H's Case at para 70.

72 H's Case at paras 70–72.

73 JS at p 52.

74 JS at pp 52–53.

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bank and only did so post-separation, [75] I found this argument to be wholly unmeritorious. Such an argument would again require this court to make a finding that the wife was attempting to conceal her assets at a time when the marriage was still functioning (see [42] above). I do not see any basis for making such a finding, particularly when it does not now appear to be disputed that the wife has provided the bank statements from December 2014 to October 2019 to the husband.[76]

47 Insofar as the husband still contends that the bank statements are incomplete, I also find this contention to be without merit. For instance, for the year 2017, the bank statements of Account -137 appear to be complete:[77]

> (a) Starting first with the 15 December 2016 statement, the transactions run from 15 October 2016 to 15 December 2016. At the end of that statement, the TCR and TDR (which the husband has described as "Total Unposted Credit" and "Total Unposted Debit" respectively – a description which the wife did not appear to seriously dispute since she has not put forward any alternative explanation of her own)[78] are represented to be $220,717.70 and $197,667.81 respectively.
>
> (b) Moving next to the 15 February 2017 statement, the start of that statement similarly reflects a TCR and TDR of $220,717.70 and $197,667.81 respectively. The transactions then run from 15 December 2016 to 4 February 2017. At the end of that statement, the TCR and TDR are reflected as $236,129.90 and $208,470.90 respectively.

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75 JS at p 45; H's Case at para 72.

76 JS at pp 45–46.

77 RA Vol II at pp 254–262.

78 RA Vol II at p 116.

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(c) The 15 March 2017 statement reflects the transactions from 21 February 2017 to 15 March 2017. The TCR and TDR are reflected at the end of the statement as $34,971.94 and $89,676.98 respectively.

(d) The 15 June 2017 statement starts by reflecting the TCR and TDR to be $34,971.94 and $89,676.98 respectively. It then lists the transactions from 15 March 2017 to 14 June 2017, ending with a TCR and TDR of $36,357.91 and $92,865.66 respectively.

(e) The 15 August 2017 statement starts by reflecting the TCR and TDR to be $36,357.91 and $92,865.66 respectively. It then lists the transactions from 15 June 2017 to 14 August 2017, ending with a TCR and TDR of $49,386.93 and $99,385.69 respectively.

(f) The 15 November 2017 statement starts by reflecting the TCR and TDR to be $49,386.93 and $99,385.69 respectively. It then lists the transactions from 15 August 2017 to 10 November 2017, ending with a TCR and TDR of $55,013.26 and $108,494.21 respectively.

(g) The 15 January 2018 statement starts by reflecting the TCR and TDR to be $55,013.26 and $108,494.21 respectively. It then lists the transactions from 15 November 2017 to 8 January 2018, ending with a TCR and TDR of $66,064.11 and $120,417.50 respectively.

48 Having regard to the above evidence, it is overly simplistic for the husband to contend that an adverse inference must be drawn because "[f]or the year 2017, statements were missing for January, April, May, July, September, October and December".[79] A closer look at the statements would indicate that

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[79] H's Case at para 70.

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there were no statements in those months because the transactions for those months were consolidated in the statements of February, March, June, August, November 2017 and January 2018. Likewise, the husband also contended in the court below that an adverse inference must be drawn because *inter alia* the end of the 15 February 2017 statement reflected a TCR and TDR of $236,129.90 and $208,470.90 respectively.[80] Yet, a closer look at the 15 February 2017 statement and the preceding statements would indicate that the TCR and TDR numbers in the 15 February 2017 statement appear to be running numbers, which include the transactions in the 15 February 2017 statement *and* the transactions in the preceding statements. This was a point which the husband acknowledged in the Joint Summary.[81] His argument that such a "big drop in accumulated funds over a short period requires explanation" appears therefore to be based on a misconception of what the TCR and TDR numbers represent.

49 Given my findings above and in particular my summary at [47] of the transactions in 2017 as reflected in the bank statements, I find no basis for the husband's contention that the wife "tempered [*sic*] with her statements [of Account -137] and intentionally hid Husband's transfers to her".[82] To support this contention, I note that the husband appears to rely solely on a receipt which shows a transfer of $12,000.00 from Account -4652 to Account -137 in February 2017,[83] which transfer is not reflected in the bank statements of Account -137. However, I do not think that it is safe for me to draw an adverse inference against the wife solely based on this receipt when the receipt itself appears to be truncated, and it is not clear what the exact date of the transfer is

80 RA Vol II at p 116.

81 JS at pp 50–52.

82 JS at p 48.

83 RA Vol II at p 136.

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and whether the transfer did in fact go through. In any event, I note that it is not disputed that the bank statements of Account -137 reflects a transfer of $26,969.02 from the husband to the wife one month later, on 8 March 2017.[84] In the circumstances, I do not think that the husband has established a *prima facie* case that warrants the drawing of an adverse inference.

50 As for the husband's allegation that the wife dissipated amounts in Account -137,[85] the main thrust of his allegation centres on a series of withdrawals totalling $55,950.00 for the period of 21 February 2017 to 8 March 2017.[86] In oral submissions, counsel for the husband contended that these withdrawals could not have been withdrawals for the purposes of the purchase of the Grandeur Park property in early March 2017 as the amounts of the withdrawals did not match the sums required to purchase the property.

51 However, based on the Joint Summary, I note that the husband now agrees that the wife contributed 100% towards the purchase of the Grandeur Park property.[87] This is consistent with the husband's account in his affidavits that "[the wife] utilized all her savings accumulated through all the years of not contributing towards the [Flora Drive property], to purchase a new property in Grandeur Park Condo".[88] The husband even went further to calculate the moneys that the wife had saved over the years of marriage, in order to submit that "[t]he amount of $306,893.82 surplus money [the wife] had saved clearly indicated that this is more than sufficient to fund her initial purchase of the

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84 RA Vol II at p 259.

85 JS at pp 47–52.

86 JS at p 47; RA Vol II at p 259.

87 JS at p 34.

88 RA Vol II at p 104.

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[Grandeur Park property]".[89] In my view, therefore, the husband's own computations lend some support to the wife's submission that the withdrawals from Account -137 from February to March 2017 were to facilitate the purchase of the Grandeur Park property.

52 Comparing the bank statement of Account -137[90] and Account -001,[91] it would appear that $19,950.00 of the withdrawals from 21 February 2017 to 3 March 2017 were accounted for, being transfers from Account -137 to Account -001. As for the transfer of $30,000.00 from Account -137 on 4 March 2017, this appeared to correspond with the date on which the cheque of $30,050 (booking fee for the Grandeur Park property) was issued.[92]

53 Given the timing of the withdrawals from Account -137, *ie*, 21 February 2017 to 8 March 2017, vis-à-vis the timing of the purchase of the Grandeur Park property, *ie*, early March 2017, I find that the withdrawals from Account -137 were probably applied to the purchase. I therefore find that the husband has not raised a *prima facie* case of dissipation and decline to draw an adverse inference against the wife with regard to Account -137.

(4) Wife's Account -880

54 Turning to POSB bank account number ending 880 ("Account -880"), the husband submitted that an adverse inference should be drawn on the basis that the wife made no mention of this bank account in her list of assets, but proceeded to exhibit a bank book which shows (a) a balance of $48,139.53 at

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89 RA Vol II at pp 118–119.

90 RA Vol II at pp 259–260.

91 RA Vol II at pp 403 and 406.

92 RA Vol I at p 544.

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the end of 2016, (b) a withdrawal of $45,000.00 on 22 February 2017, (c) resulting in a closing balance as at 22 February 2017 of $3,139.53.[93]

55 As with the analysis of Account -137 above, I do not think that the withdrawals which the wife made during the period of February 2017 to March 2017 from Account -137 and Account -880 either individually or collectively warrant the drawing of an adverse inference against the wife based on concealment of assets or dissipation. For Account -880, the wife exhibited the bank statement as evidence of payments that she made to the purchase of the Grandeur Park property.[94] These withdrawals were made around the time the wife signed the option to purchase in early March 2017. While the size of the withdrawals do not completely match the total initial sum of about $75,230.00 required to purchase the property,[95] the difference is not so significant vis-à-vis the sum required as to warrant the drawing of an adverse inference. As such, I decline to draw an adverse inference against the wife in respect of Account -880.

(5) Wife's Account -001

56 As for Account -001, I note that it is not the husband's case that the wife failed to provide him with the bank statements of Account -001.[96] Dealing first with the arguments in his Appellant's Case,[97] I fail to see how a sum of $47,725.30 in withdrawals for the whole year of 2018 vis-à-vis a sum of $43,388.92 in withdrawals for the period of January to September 2019 warrants

[93] JS at p 41; RA Vol I at pp 548–549.

[94] RA Vol I at p 423.

[95] RA Vol I at pp 544–545.

[96] JS at pp 53–55.

[97] H's Case at para 73.

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a finding of an adverse inference. The husband also did not explain how the mere fact that the wife's monthly salary was not reflected in the bank statements for certain months warrants a finding of an adverse inference.

57 In any event, in the Joint Summary, the husband shifted away from his original arguments in his Appellant's Case. In the Joint Summary, he took the position that an adverse inference ought to be drawn because the bank statements reflected large deposits into this account between 22 to 23 February 2017 and a withdrawal of $30,000 on 7 March 2017, which he claimed could not have been "meant for her home payment" as the withdrawal was made after the cheque of $30,050 was issued on 4 March 2017 (see in this regard [52] above).[98]

58 Again, I find that the husband has fallen short of satisfying me that an adverse inference should be drawn against the wife. With regard to the large deposits into Account -001, I do not think that the husband has established a case of concealment or dissipation, particularly when these deposits appear to correspond with withdrawals from the wife's other bank accounts (see [52] above). In any event, I accept the wife's explanation that the movement of funds at the material time between February and March 2017 was to facilitate her purchase of the Grandeur Park property. I am unable to see why the wife's withdrawal of $30,000 on 7 March 2017 could not have been "meant for her home payment". As the wife pointed out, stamp duties and legal fees were still due after that date. The husband's rebuttal that the stamp duties and legal fees were paid from her UOB account and not Account -001 does not go very far because the wife was not saying that the withdrawal of $30,000 from Account -001 went directly towards the payments. Rather, I understand her submission in

98 JS at pp 53–54.

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respect of her bank accounts to be that she was combining her savings from various accounts to prepare for the purchase of the Grandeur Park property.[99] The husband's observation that the eventual payments for the said property were through her UOB account supports – rather than contradicts – the wife's submission. As such, I decline to draw an adverse inference against the wife for Account -001.

(6) Husband's Accounts

59 In the Joint Summary, the wife repeated the arguments on adverse inferences which she had made in the court below. These concerned:

(a) The husband's failure to produce complete bank statements for Account -513 and POSB Account number ending 1154 ("Account -1154");[100]

(b) The husband's failure to produce the monthly bank statements for his two ANZ Account numbers ending 465 and 481;[101]

(c) The husband's failure to provide any documents related to a time share, such as its value, despite listing the said time share as a matrimonial asset to be divided;[102] and

(d) The discrepancy between the husband's earnings and assets.

99 JS at p 42.

100 JS at pp 59–63; RA Vol II at pp 620–621, paras 41–43.

101 JS at pp 64–66; RA Vol II at p 621, para 44.

102 JS at pp 66–68; RA Vol II at p 621, para 45.

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60 While the husband has objected to these arguments being raised by the wife in the Joint Summary, I do not think that it prevents me from considering her arguments, especially since they were the same arguments she had already raised in the court below. I had also requested parties to file the Joint Summary which was to represent his or her binding position (see [14] above); and as can be seen from what I have earlier said about some of the husband's own arguments, *both* parties took the opportunity to elaborate on – and on occasion depart from – positions taken in the Appellant's Case or the Respondent's Case. With respect, I should add that the DJ erred in making *no* findings at all on adverse inferences, when parties had expressly argued before her for adverse inferences to be drawn against each other.[103]

61 Dealing first with the accounts at [59(a)], I am of the view that the wife has shown a substratum of evidence which establishes a *prima facie* case against the husband (see [39] above). First, it does not appear to be disputed by the husband that he only disclosed some bank statements of each account and not others. His explanation for his failure to disclose the other bank statements is that the remaining statements "were in the Matrimonial Home which Wife was occupying exclusively".[104] I find this explanation to be unsatisfactory given that the husband did not appear to have difficulties securing bank statements of Account -513 for the preceding period of "almost 5 years from December 2013 to June 2018"; and he also acknowledged that these bank statements could have been procured from the bank albeit at a fee.[105] I should add that the mere fact of non-disclosure of *some* of the statements *per se* would not have led me to draw an adverse inference. What I found extremely telling was the bank statements

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[103] RA Vol I at p 61.

[104] JS at pp 59 and 63.

[105] JS at p 60; RA Vol II at p 597.

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which were *not* disclosed: it appeared to me suspiciously convenient that the periods of non-disclosure, *ie*, July 2018 to June 2019 for Account -513 and August 2018 to March 2019 for Account -1154, coincided with the period when the husband filed the writ for divorce, *ie*, October 2018. I also do not accept the husband's further explanation for his selective disclosure of the bank statements of Account -1154, *ie*, that "this Current Account holds no funds as it was only used as a cheque issuing facility". The onus was on the husband to provide full and frank disclosure. In the circumstances, I am of the view that an adverse inference ought to be drawn against the husband for his selective disclosure of bank statements for Account -513 and Account -1154.

62 As for the ANZ accounts at [59(b)], I note that the husband does not dispute the wife's account that he did not produce *any* monthly bank statements for the two ANZ accounts and "only produced a *letter* from ANZ (undated) confirming the account balance as of 16 December 2019 for account ending with 465 and an *online screenshot of the available balance*" [emphasis in original].[106] The husband's explanation in this regard is that he "tried to request for statements … He has provided the documents that he was given. He could not do anything else to make the bank provide further documents".[107] Yet, this explanation falls short when it does not appear to be supported by any documentary evidence of either his efforts to request for the statements and/or the bank's alleged refusal to provide the said statements. Given that the husband does not dispute the existence of these accounts[108] and does not dispute the wife's account that he provided an online screenshot of the available balance, I am of the view that an adverse inference ought to be drawn against the husband

106 JS at p 64.

107 JS at p 65.

108 RA Vol II at p 598.

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for his failure to disclose *any* monthly bank statements for the two ANZ accounts.

63 With regard to the time share at [59(c)], the husband acknowledged that the membership was "solely paid and maintained by [him]".[109] I also note that it was the husband who had set out the time share in his proposal for the division of matrimonial assets and submitted that "[the Husband] shall maintain the share in his own name".[110] His present explanation for his inability to provide a value of the time share is unbelievable and self-contradictory. On one hand, he claimed to have "enquired with the Club Representative in Singapore and they were not able to provide him with a tangible value of the time share he had". Again, it does not appear that he provided any evidence of these communications. On the other hand, he submitted that the "Wife could have made an enquiry herself in the open market to find out the value of the time share" – which begs the question as to why he himself could not have made such enquiries. To add to the string of contradictions, he further claimed that he "was not able to provide any value of the time share because [its] value … is dynamic and varies according to the demand of such commodities at the time of sale".[111]

64 Given the above evidence, I draw an adverse inference against the husband for his failure to provide the documents related to the time share and/or the value of the time share at the material time of the AM hearing.

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109 JS at p 67.

110 RA Vol I at p 145.

111 JS at p 68.

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65 Finally, in respect of the discrepancy between the husband's earnings and assets, I note that the husband has disclosed a total of $192,263.53 across his 6 bank accounts (see [20] above). The wife submitted that an adverse inference should be drawn given the "huge discrepancy between the Husband's earnings and the available monies in his bank accounts". However, I decline to draw an adverse inference against the husband on this basis alone. The wife needed to do more to establish a *prima facie* case here: it was not sufficient for her to allege in general terms that the husband would have a "healthy balance of more than S$10,000 in cash every month" or to compare broadly the husband's NOA in one year as against his assets in order to assert that he must have been concealing certain assets.

66 In light of the husband's lack of full and frank disclosure with regard to the assets at [59(a)] to [59(c)], I consider it appropriate to draw an adverse inference against the husband. I will deal with how to give effect to the adverse inference drawn against the husband later at [89].

Conclusion on the pool of matrimonial assets

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

S/N	Description	Value
Joint Assets		
1	Australian property	$48,666.00
Sub-total (A)		$48,666.00
Husband's Assets		
2	Flora Drive property (see [28] above)	$800,899.63
3	Audi A8	$95,000.00

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4	Account -513	$31,668.42
5	Account -540	$0
6	Account -4652	$56,784.95
7	Account -455	$5,185.42
8	Account -055	$85,094.74
9	ANZ Savers Account	$13,530.00
10	Prudential policy (see [37] above)	$6,172.00
11	AIA policy (see [37] above)	$20,122.23
12	CPF Savings (see [36] above)	$508,913.35
Sub-total (B)		$1,623,370.74
Wife's Assets		
13	Grandeur Park property (see [30] above)	$126,883.28
14	Penang property	$105,066.71
15	Mini Cooper	$62,000.00
16	Account -001	$45,571.03
17	Account -484	$4,561.92
18	Account -137	$448.81
19	Citibank (Malaysia) Flexi Home Loan Account	$1,372.88
20	Account -6154	$405.53
21	Manulife Policy	$14,208.74
22	Wife's shares	$56,946.90

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23	CPF Savings	$147,264.16
Sub-total (C)		$564,729.96
Total		$2,236,766.70

Division of the pool of matrimonial assets

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

69 In applying the *ANJ* structured approach (see [12] above), I will first consider each party's direct and indirect contributions.

Direct contributions

Agreed direct contributions

70 Parties agree on the following direct contributions:[112]

S/N	Description	Husband	Wife
1	Australian property	$48,666.00	$0
2	Flora Drive property	$800,899.63	$0
3	Audi A8	$95,000.00	$0
4	Account -513	$31,668.42	$0
5	Account -540	$0	$0
6	Account -4652	$56,784.95	$0
7	Account -455	$5,185.42	$0

112 JS at pp 24–40; RA Vol II at pp 640–641 and 659–662; H's Case at pp 112–114.

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8	Account -055	$85,094.74	$0
9	ANZ Savers Account	$13,530.00	$0
10	Prudential policy	$6,172.00	$0
11	AIA policy	$20,122.23	$0
12	CPF Savings	$508,913.35	$0
13	Mini Cooper	$62,000.00	$0
14	Grandeur Park property	$0	$126,883.28
15	Account -001	$0	$45,571.03
16	Account -484	$0	$4,561.92
17	Account -137	$0	$448.81
18	Citibank (Malaysia) Flexi Home Loan Account	$0	$1,372.88
19	Account -6154	$0	$405.53
20	Manulife Policy	$0	$14,208.74
21	Wife's shares	$0	$56,946.90
22	CPF Savings	$0	$147,264.16
Total		$1,734,036.74	$397,663.25

71 I make several points on the table above.

(a) Firstly, it is not clear to me why the husband has for the purposes of this appeal chosen to include his financial outlay for the Audi A8 and Mini Cooper as his direct contributions, *without* taking into account the net value of each asset. He submitted that the purchase price of $220,000.00 for the Audi A8 and $110,000.00 for the Mini Cooper

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should constitute his direct contributions,[113] without adjusting for their net value. I decline to adopt the husband's proposed approach. Instead, I find that the more principled approach is to attribute parties' direct contributions based on the net value of the asset, after determining the ratio in which parties contributed to the acquisition of that asset. In any event, the husband appeared to concede in the Joint Summary that his contribution should be pro-rated to the net value of the property.[114] Based on the agreed net values of the Audi A8 and Mini Cooper, I attribute $95,000.00 and $62,000.00 to the husband as his direct contributions to each asset respectively.

(b) With regard to the Flora Drive property, the DJ found that "[t]he Husband was solely responsible for the down payment and the subsequent [instalments] throughout and even for the periods after he left the home and until the present proceedings" (see [31] of the GD). While the wife had in the proceedings below averred that she contributed $8,000.00 by way of booking fee to the Flora Drive property[115] (and this was an assertion which she repeated in the Joint Summary), I note that the wife has not produced any evidence that she contributed $8,000.00 by way of booking fee.[116] As such, I do not disturb the DJ's finding that the husband's direct contributions to the Flora Drive property is 100.00%. Having accepted that the net value of the Flora Drive property is $800,899.63, I attribute $800,899.63 as the direct contributions of the husband.

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113 H's Case at pp 113–114.

114 JS at pp 29–30 and 33–34.

115 RA Vol II at p 624.

116 JS at pp 24–25.

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(c) As for the Grandeur Park property, the husband no longer disputes that the wife's contributions to the Grandeur Park property is 100.00%.[117] Having found that the net value of the Grandeur Park property is $126,883.28, I attribute $126,883.28 as the direct contributions of the wife. I do not accept the parties' agreed approach of taking the wife's financial outlay for the Grandeur Park property as her direct contributions, *without* taking into account the net value.

Disputed direct contributions

72 As for the Penang property, I note that the DJ made a finding that the husband contributed $56,910.00 to the purchase price of the Penang property, which claim the wife did not refute (see [32]–[33] of the GD). In the Respondent's Case, the wife claimed that this was because she "did not have the opportunity to fully address the Husband's version of events".[118] I am unable to accept this explanation. In any event and even during this appeal, the wife did not appear to seriously dispute the husband's contention that he contributed $56,910.00 towards the Penang property (which moneys came from the intended purchase of a previous Malaysian property) since she has not put forward any alternative explanation of her own. As such, I see no reason to disturb the DJ's finding in this regard.

73 In this appeal, the husband contends that he made the payment of the remainder of the down-payment of some $20,000.00 although he conceded in the Joint Summary that the wife made the mortgage payments of some

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117 JS at p 34.

118 W's Case at para 149.

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$50,566.94.[119] The main dispute between the parties is as to who made the payment of the remaining down-payment of $20,000.00.

74 From what I have seen of the materials before me, the husband does not appear to have provided any evidence of his having made such a payment to the wife. As for his submission that she could not have made any contributions to the purchase of the Penang property in 2013 as she worked odd jobs from 2007 to April 2009 and had stopped working from mid-2012 to mid-2014, it is telling that he left out the fact that she was gainfully employed from April 2009 to June 2012.[120] As I found at [5] above, during this period, it is not disputed that the wife did well at work, and this is also reflected in her CPF balances which grew significantly. Coupled with the fact that the wife provided supporting documents of payments she made for the Penang property,[121] versus the lack of evidence from the husband of his alleged transfer of $20,000.00, I find that the balance down-payment for the Penang property was provided by the wife. As such, the respective parties' direct contributions to the Penang property are as follows:

S/N	Expense	Husband	Wife
1	Purchase Price	$56,910.00	$20,000.00
2	Mortgage Payments	$0	$50,566.94
Total direct contribution in acquiring Penang property ($127,476.94)		$56,910.00	$70,566.94
Ratio		44.64%	55.36%

119 JS at p 35.

120 H's Case at para 51.

121 RA Vol I at pp 239–243.

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Direct contribution to Penang property valued at $105,066.71	$46,901.78	$58,164.93

Ratio (direct contributions)

75 The parties' direct contributions are as follows:

S/N	Description	Husband	Wife
1	Agreed direct contributions	$1,734,036.74	$397,663.25
2	Penang property	$46,901.78	$58,164.93
Total ($2,236,766.70)		$1,780,938.52	$455,828.18
Ratio		79.62%	20.38%

76 As such, the direct ratio is 80:20 (rounded up) in favour of the husband.

Indirect contributions

77 In this appeal, the husband submitted that the ratio of indirect contributions should be 95:5 in his favour.[122] This is a stark departure from his position in the court below where he had submitted that the ratio of indirect contributions should be 70:30 in his favour (see [8] above). No explanation was given for this drastic change in position. As for the wife, she maintained the position taken in the court below: namely, that the indirect contributions should be 70:30 in her favour (see [9] above).

78 In relation to indirect contributions, the court considers both indirect financial and non-financial contributions. In *USB (CA)* at [43], the CA noted:

122 JS at p 72.

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> In our judgment, 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.

79 Dealing first with indirect financial contributions, I note that the wife does not dispute the husband's account that he paid for most of the household bills.[123] The husband provided her with a supplementary credit card and gave her a monthly allowance of $2,000.00 from around June 2012.[124] At the same time, the husband acknowledged that the wife was not one to idle at home. Despite his efforts to persuade her otherwise, the wife went back to work on several occasions, and she did well in the roles she took on.[125] In his affidavit, the husband also acknowledged that the wife did pay for some expenses. For instance, the Penang property loan repayments, maintenance bills and the wife's personal expenses totalling around $1,250.00 a month were paid from the wife's own savings (as well as the monthly allowances he gave her).[126] Insofar as the husband submitted that he paid for *everything*, I am of the view that he may have overstated his case. While the husband did contribute more financially to the marriage, I find that the wife did contribute as well to the family finances. This was supported by evidence of her work history. After all, it was on her own

123 RA Vol I at p 180 and 424.

124 RA Vol I at p 428.

125 RA Vol I at p 77–78.

126 RA Vol II at p 119 and 244.

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initiative that she sought gainful employment, and it is not disputed by the husband that she did earn a decent salary for a large part of the marriage.[127]

80 As for indirect non-financial contributions, there are several facts which are undisputed by parties. First, there are no children to the marriage. Second, for the duration of the marriage, neither party appeared to be the primary caregiver to the other's parents; and it is not suggested that either set of parents stayed at their matrimonial home for *extended* periods. At the same time, the parties were agreed that the husband was away from Singapore for extended periods due to the nature of his job, *ie*, about two weeks in a month. This is the point where any agreement between the parties ceases and the dispute begins.

81 In his 2nd affidavit, the husband described at length the purported laziness of the wife, claiming that the wife "*never* did lift a finger to help" in the housework[128] and that he was "the one who managed *all* the household chores" [emphasis added].[129] On the other hand, the wife claimed that the husband "was *never* involved in the domestic sphere" as "[h]e would often be jet lagged and sleeping during the day" [emphasis added].[130] The picture each party painted of their married life could not be more different from the other's, with each claiming that he or she took care of virtually everything in the domestic sphere, while the other party did absolutely nothing in return. Even their pet dog, who has since passed away, was brought into the fray. The wife claimed that she was the one who would "care for [their pet dog] … whilst [the husband] rested at

127 H's Case at para 22.

128 RA Vol II at p 88.

129 RA Vol II at p 98.

130 RA Vol I at p 177.

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home".[131] The husband claimed that the wife "left [their pet dog] mostly unattended and uncared for whilst [he] was working overseas" and that "it always fell on [him] to take good care of [their pet dog] whenever [he] was in Singapore".[132]

82 Given the wildly differing narratives which parties put forward, I fall back again on the undisputed evidence. First, as to the husband's assertion that the wife was lazy and did not "lift a finger to help" in the domestic sphere, I find his assertion hard to believe taking into account the wife's undisputed work ethic.[133] I add that given the husband's own evidence about the extended periods of time he spent away from home as a result of his job,[134] I find it unbelievable that it would have been possible for the wife to shirk all responsibility for domestic chores: although parties did have the assistance of part time helpers,[135] they were agreed that there were still many domestic chores to be done.

83 Moreover, it is clear from his Statement of Particulars dated 15 October 2018 ("SOP") that it was the husband who had actively urged the wife to stop working in or about 2011 in order to spend more time with him.[136] This corroborated the wife's account that she had in fact left a successful job in end 2011 to join another company so that she could spend more time at home with the husband, eventually quitting her job altogether to be a homemaker at the husband's urging.[137] While the husband claimed that this was merely an excuse

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131 RA Vol I at p 177.

132 RA Vol II at p 87.

133 See for *eg*, RA Vol II at p 94.

134 RA Vol I at pp 77–78 and 145; RA Vol II at pp 97–98; H's Case at para 41.

135 RA Vol I at p 173; RA Vol II at p 82.

136 RA Vol I at p 77.

137 RA Vol I at p 179.

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and that she had switched jobs as she was underperforming,[138] no mention of this was made in his initial SOP. Instead, what was described was how the wife had consistently chosen to work instead of stay at home.[139] What is also clear is that the wife was a homemaker for a period of around 4 years while the husband was away for extended periods due to his job.

84 I also reject the husband's submission in this appeal that the length of the marriage should be halved to some 4.5 years[140] because his job as an airline captain meant that he was away from Singapore half the time. This submission appeared to be an afterthought and was in any event wholly unsupported by any authority for such an approach. If anything, I consider the husband's frequent absences to be of some relevance to his indirect non-financial contributions, namely the extent to which he could have contributed in the domestic sphere.

85 Taking the circumstances in the round, I find the ratio of indirect contributions (both financial and non-financial) to be 60:40 in favour of the husband.

86 As for the husband's submission that a negative value should be ascribed to the wife's indirect non-financial contributions, the husband has not met the high threshold required for such a finding. For such a finding to be made, there must be evidence that the wife's conduct was undisputed and extreme: *per* the Court of Appeal in *Chan Tin Sun v Fong Quay Sim* [2015] 2 SLR 195 at [25]). In that case, the wife was found to have "embarked on a premeditated course of action to inflict harm on the Husband by poisoning him over a period of time"

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138 RA Vol II at p 95.

139 RA Vol I at p 77.

140 H's Case at paras 18 and 41.

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(at [54]). The Court of Appeal held that her conduct was undisputed and extreme, and that a negative value ought to be ascribed to it, which the court gave effect to by applying a 7% discount to the 35% which the wife had been awarded of the matrimonial assets (at [57]–[58]). In the present case, the factors highlighted by the husband, such as the wife's purported lack of concern for his parents or her purported refusal to start a family,[141] fall very far short of what is required before a court is prepared to ascribe a negative value to the wife's conduct.

Average ratio and adjustments

87 Applying the *ANJ* approach, which is a broad brush approach, I summarise the ratios identified above as follows:

Contributions	Husband	Wife
Direct Contribution Ratio	80%	20%
Indirect Contribution Ratio	60%	40%
Average Ratio	70%	30%

88 At this juncture, I was of the view that a small adjustment should be made to the average ratio to take into account the rent-free occupation enjoyed by the wife in the matrimonial home to the exclusion of the husband since separation, which amounted to about $60,000.00 for 4 years, taking into account the wife's equal right to reside in the matrimonial home. This is about 2.5% of the total pool of matrimonial assets valued at $2,236,766.70.

[141] H's Case at pp 105–108.

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89 At the same time, having found that an adverse inference ought to be drawn against the husband for his lack of full and frank disclosure (see [66] above), I give effect to it by adjusting the average ratio by 5% in favour of the wife. Doing so would be just and equitable in the circumstances.

90 Having regard to all the circumstances, I conclude that a just and equitable division is 67.5:32.5 in favour of the husband. This amounts to $1,509,817.52 (being 0.675 x $2,236,766.70) for the husband and $726,949.18 (being 0.325 x $2,236,766.70) for the wife.

Apportionment

91 I turn now to the apportionment of the matrimonial assets. Given that I have valued the wife's assets at $564,729.96 (see [67] above), the difference between the wife's assets and her entitlement upon division is $162,219.22 (being $726,949.18 - $564,729.96).

92 In the circumstances, I reverse the DJ's order that the wife shall be entitled to $200,000.00 of the husband's CPF moneys in his ordinary account, and order instead that the wife shall be entitled to $162,219.22 of the husband's CPF moneys in his ordinary account. I do not find it necessary to make any changes to the DJ's other orders on the division of matrimonial assets. I am of the view that this outcome is fair and just in all the circumstances.

Maintenance for the wife

93 The wife argued that the DJ's decision on lump sum maintenance of $60,000, being $1,000 a month for five years should be upheld, whereas the husband's primary argument is that she should get no maintenance at all.

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94 As Debbie Ong JC (as she then was) noted in *TNC v TND* [2016] 3 SLR 1172 ("*TNC*") (at [66]), an order of maintenance under s 113 of the Women's Charter supplements the order for the division of matrimonial assets: maintenance is based on need (see also *BUX v BUY* [2019] SGHCF 4 at [55]). In *TNC* (at [68]), Ong JC decided not to award the wife any maintenance – but this was in view of the fact that the wife had been awarded the "massive" sum of $10.7 million in the division of matrimonial assets. On appeal, the Court of Appeal left Ong JC's orders on maintenance undisturbed (see *TND v TNC and another appeal* [2017] SGCA 34 at [104]). In *Lock Yeng Fun*, the Court of Appeal rescinded the order for lump sum maintenance for the wife after awarding her 50% of the matrimonial assets, which amounted to $1.6 million. Conversely, in *Oh Choon v Lee Siew Lin* [2014] 1 SLR 629, the Court of Appeal decided that the lump sum maintenance awarded to the wife should be increased as it had held on appeal that her share of the total pool of matrimonial assets should be reduced from 26.29% to 15% (from a sum of $760,964.89 to a sum of $434,231.19) (see also *Lee Siew Lin v Oh Choon* [2013] SGHC 25 at [26]). As the Court of Appeal noted in its judgment (at [21]), "courts regularly take into account each party's share of the matrimonial assets when they assess the appropriate quantum of maintenance to be ordered"; and in that case, having reduced the proportion of matrimonial assets to be given to the wife, it was "only fair" that they revised upwards the amount of maintenance awarded to her. The court therefore increased the wife's lump sum maintenance from the $5,000 awarded by the judge below to a sum of $72,000.

95 Based on the findings I have arrived at in this case, the wife will receive 32.5% of the matrimonial assets, with a total value of $726,949.18. Considering the share of matrimonial assets awarded to the wife and having regard to the factors enumerated in s 114(1) of the Women's Charter, I see no reason to reverse or adjust the DJ's order for lump sum maintenance of $60,000. *Inter*

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alia, I note that although the wife has shown herself to be capable of improving her career prospects and earning capacity over time, her current salary and her share of the matrimonial assets are far from what I would describe as "massive" or even particularly bountiful; and bearing in mind her ongoing financial commitments, $60,000 appears to me to be a fair sum to award her in lump sum maintenance.

Conclusion

96 For the reasons stated above, my decision is as follows:

(a) The appeal is allowed only to the extent that I reverse the DJ's order that the wife shall be entitled to $200,000 of the husband's CPF moneys in his ordinary account and order instead that the wife shall be entitled to $162,219.22 of the husband's CPF moneys in his ordinary account. The DJ's other orders on the division of matrimonial assets are to remain.

(b) The DJ's order that the husband is to pay a lump sum maintenance of $60,000 to the wife in two equal instalments is to remain. The husband is to pay the first instalment of $30,000 within 1 month from today (*ie* by 18 August 2021) and the second instalment of $30,000 within 6 months therefrom (*ie* by 16 February 2022).

97 As neither party has been entirely successful in the appeal, I find that the fairest order to make as to costs should be that each party bear his or her own costs of SUM 65 and DCA 111. I so order accordingly.

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98 As to the mode of payment of the maintenance instalments, I leave it to parties to work out the administrative arrangements for payment. Parties have liberty to apply to me only in respect of the timing of the instalment payments.

Mavis Chionh Sze Chyi
Judge of the High Court

Foo Soon Yien and Kong Shin Ying Brenda (BR Law Corporation) for the appellant;
Leong Kit Ying Melissa (Bayfront Law LLC) for the respondent.

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