

**IN THE GENERAL DIVISION OF THE HIGH COURT OF THE REPUBLIC
OF SINGAPORE**

[2021] SGHC 92

Divorce (Transferred) No 3191 of 2008
(Summons No 3498 of 2020)

Between

CKO

... Plaintiff

And

CKP

... Defendant

GROUND OF DECISION

[Family Law] — [Maintenance] — [Wife]

TABLE OF CONTENTS

FACTS.....	2
THE PARTIES' CASES.....	3
THE MAIN ISSUE.....	4
WHETHER THE SUBSISTING MAINTENANCE ORDER SHOULD BE RESCINDED OR VARIED DOWNWARDS	4
WHETHER THERE HAS BEEN A MATERIAL CHANGE IN CIRCUMSTANCES.....	4
WHETHER RESCISSION OR A DOWNWARD VARIATION IS MORE APPROPRIATE	6
THE DATE THE ORDER SHOULD TAKE EFFECT	16
WHETHER AN END DATE SHOULD BE SPECIFIED.....	17

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.

CKO

v

CKP

[2021] SGHC 92

General Division of the High Court — Divorce (Transferred) No 3191 of 2008
(Summons No 3498 of 2020)

Chan Seng Onn J

9 November 2020, 15 February 2021

16 April 2021

Chan Seng Onn J:

1 Summons No 3498 of 2020 (“SUM 3498”) was an application filed by the plaintiff, the husband (“CKO”), under s 118 of the Women’s Charter (Cap 353, 2009 Rev Ed) (“Women’s Charter”) to seek a rescission or downward variation of the monthly maintenance payable to the defendant, his former wife (“CKP”). Under paragraph 9 of the Order of Court in relation to the ancillary matters dated 19 October 2010, CKO was to “pay monthly maintenance of \$4,000.00” (the “Subsisting Maintenance Order”).¹

2 On 9 November 2020, after considering the parties’ written submissions and oral arguments, I varied the Subsisting Maintenance Order of \$4,000.00 downwards to \$1,500.00 with effect from 1 December 2020.

¹ ORC 6331/2010/L.

3 Subsequently, on 20 November 2020, CKO filed a request for further arguments. CKO sought a further downward variation of the monthly maintenance to \$1,000.00 or lower. In addition, CKO wanted (a) the maintenance to be payable until he turned 62 years old and to cease thereafter; and (b) the variation to take effect from 31 August 2020 (*ie*, the date of cessation of CKO’s employment) or, alternatively, 9 November 2020 (*ie*, the date on which the order to vary the Subsisting Maintenance Order was given). After hearing parties’ further arguments on 15 February 2021, I declined to make any further orders.

4 CKO has since filed an appeal against my decision. I now set out the grounds of my decision.

Facts

5 The parties were married in 1989² and the marriage came to an end on 11 January 2011.³ CKO and CKP are 61 years old.⁴ CKO was formerly an equity partner in a law firm and retired in August 2020.⁵ He does not intend to seek full-time employment but intends to accept *ad hoc* appointments as they come.⁶ CKO owns a double-storey semi-detached house (“CKO’s Property”).⁷ CKP is

² Plaintiff’s Written Submissions dated 2 November 2020 (“PS1”) at para 4; Respondent’s Written Submissions dated 2 November 2020 (“DS1”) at para 5.

³ DS1 at para 8.

⁴ CKO Affidavit dated 19 August 2020 (“CKO1”) at para 17; CKP Affidavit in Reply dated 6 October 2020 (“CKP1”) at para 60.

⁵ CKO1 at para 17.

⁶ CKO Final Affidavit in Reply dated 20 October 2020 (“CKO2”) at para 9(1).

⁷ Transcript (15 February 2021) at p 22; Transcript (9 November 2020) at p 17.

a flexible adjunct teacher in a secondary school.⁸ She jointly owns a condominium unit with her sister.⁹

6 There were two children of the marriage. The daughter, [C], is 28 years old and has special needs.¹⁰ She had been diagnosed with infantile spasms and is intellectually challenged.¹¹ The son, [D], is 24 years old and pursuing tertiary education at the National University of Singapore (“NUS”).

7 CKO remarried on 18 May 2011. His wife, [W], is 49 years old.¹² They have a daughter, [E], who is 8 years old.¹³ [C] and [D] live with CKO, [W] and [E] in CKO’s Property.¹⁴

The parties’ cases

8 CKO’s case was that the Subsisting Maintenance Order ought to be rescinded or varied downwards because there has been a material change in

⁸ DS1 at para 15; CKP1 at para 52.

⁹ DS1 at para 33; CKP1 at para 33.

¹⁰ PS1 at paras 4, 13; CKO1 at paras 4, 10.

¹¹ DS1 at para 4; CKP1 at para 5.

¹² CKO1 at p 24 (Tab D Certificate of Registration of Birth of [E]).

¹³ CKO1 at p 24 (Tab D Certificate of Registration of Birth of [E]).

¹⁴ PS1 at para 6 CKO1 at para 5.

CKO's circumstances since the Order of Court was made for the following reasons:¹⁵

- (a) CKO lost his position as an equity partner of a law firm and no longer received partnership drawings or an employment income;
- (b) CKO remarried and had to provide for the expenses of his entire family including [W], [E], [C] and [D]; and
- (c) CKO's health condition was deteriorating.

9 CKP's case was that there ought to be no variation order made because CKO's retirement, remarriage and health condition do not amount to a material change of circumstances sufficient to warrant a variation of the Subsisting Maintenance Order.¹⁶

The main issue

10 The main issue that arose for my determination was whether the Subsisting Maintenance Order should be rescinded or varied downwards.

Whether the Subsisting Maintenance order should be rescinded or varied downwards

Whether there has been a material change in circumstances

11 The statutory basis for the Court's power to vary maintenance orders for former wives is set out in s 118 of the Women's Charter:

Power of court to vary orders for maintenance

¹⁵ PS1 at para 2.

¹⁶ DS1 at paras 32, 44, 46.

118. The court may at any time vary or rescind any subsisting order for maintenance, whether secured or unsecured, on the application of the person in whose favour or of the person against whom the order was made, or, in respect of secured maintenance, of the legal personal representatives of the latter, where it is satisfied that the order was based on any misrepresentation or mistake of fact or *where there has been any material change in the circumstances*.

[emphasis added]

12 For applications relying on the ground of “material change in the circumstances” under s 118 of the Women’s Charter, the High Court in *ATS v ATT* [2016] SGHC 196 (at [13]) stated the following:

Generally, when the “change in circumstances” condition in s 72 and/or s 118 is invoked, the variation court strictly decides from the time-point post-ancillary order. The court should thus examine whether:

- (a) such change being alleged is a *change* from circumstances prevailing during the ancillary matters hearing;
- (b) such change being alleged arose *after* the ancillary matters hearing; and
- (c) such change being alleged is sufficient to satisfy the court that a variation or rescission of maintenance is necessitated (in light of the factors that determined the final maintenance order made at the ancillary hearing (*Tan Sue-Ann Melissa* at [26])).

13 The Court of Appeal in *BZD v BZE* [2020] SGCA 1 (at [14]) clarified that the question was not simply whether there has been any material change *per se* but whether the change was sufficiently material such that it is no longer fair to expect the *status quo* to remain.

14 On the evidence before me, I found that there was a material change of circumstances which rendered it no longer fair to expect the Subsisting Maintenance Order to remain.

15 Following CKO's retirement, he will no longer have employment income or partnership drawings.¹⁷ While CKO stated that he intends to accept odd jobs or appointments that come his way,¹⁸ it is indisputable that there is a material drop in income as contrasted with his income of about \$20,000 per month in 2010 (*ie*, at the time of the ancillary matters hearing).¹⁹

16 Further, CKO's remarriage and his responsibility to maintain [E] are fresh financial obligations that CKO did not have at the time of the ancillary matters hearing. While remarriage *per se* should and does not affect or compromise the pre-existing obligations that a husband owes to the wife and children from a previous marriage, the fact that the husband has fresh financial commitments as a result of remarriage could be a factor in the investigation into whether there has been a material change of circumstances (see *George Sapooran Singh v Gordip d/o MD Garsingh* [2016] SGHC 197 ("*George Sapooran*") at [39]). CKO's fresh financial commitment to maintain [E] does point towards finding a material change in the circumstances.

Whether rescission or a downward variation is more appropriate

17 I now address the appropriate order to make. In determining whether to rescind or vary the amount of maintenance payable, the factors provided for in s 114(1) of the Women's Charter should be considered:

In determining the amount of any maintenance to be paid by a man to his wife or former wife, the court shall have regard to all the circumstances of the case including the following matters:

- (a) the income, earning capacity, property and other financial resources which each of the parties to the

¹⁷ PS1 at paras 30–31.

¹⁸ CKO2 at para 9(1).

¹⁹ Form 35A (Ancillary matters facts and position sheet filed 21 May 2010) at p 14.

marriage has or is likely to have in the foreseeable future;

(b) the financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future;

(c) the standard of living enjoyed by the family before the breakdown of the marriage;

(d) the age of each party to the marriage and the duration of the marriage;

(e) any physical or mental disability of either of the parties to the marriage;

(f) the contributions made by each of the parties to the marriage to the welfare of the family, including any contribution made by looking after the home or caring for the family;

...

18 Having regard to s 114 of the Women's Charter, I was not persuaded that rescission was appropriate in the circumstances. However, I varied the Subsisting Maintenance Order downwards to \$1,500.00 monthly with the following considerations in mind.

19 First, I considered the income, earning capacity and financial resources of the parties after CKO's retirement. On this point, the High Court in *Yow Mee Lan v Chen Kai Buan* [2000] 2 SLR(R) 659 ("*Yeo Mee Lan*") made the following observations (at [95]):

... Further, the husband if he were paying monthly maintenance **could not expect to be relieved entirely from this obligation by reason of retirement**. In the normal case of an order for the periodic payment of maintenance, the husband is able to go back to the court and ask for a variation of the order if his financial circumstances change for any reason including retirement. At that stage, the court will assess the parties' needs and assets and adjust the maintenance order so as to be fair to both parties. **In some cases, it is possible that the maintenance order will be discharged entirely but this is not the most probable outcome of such a variation application.** In any event, *prima facie*, the husband's obligation

to maintain the wife would continue beyond his retirement and up to her remarriage or the death of either party.

[emphasis added]

20 As such, *prima facie*, CKO's retirement did not justify the rescission of his obligation to maintain CKP. While CKO would no longer draw partnership drawings or an employment income following his retirement, this did not mean that he has no *earning capacity*. Even considering his age and health condition, I found it difficult to say that he was unable to work. CKO's own evidence is that he has *chosen* not to seek full-time employment but intends to accept odd jobs or appointments that come his way.²⁰ With his experience and age, I deemed it likely that he has an estimated monthly earning capacity of at least \$5,500.00. In my view, this estimate is conservative. In terms of financial resources, CKO is a man of very substantial means. Aside from owning CKO's Property (a double-storey semi-detached house), he had also inherited a sum of about \$3,500,000.00 from his father. He claims that after payment of debts, he now has \$1,200,000.00 in cash. While CKO did disclose that he owns "some shares", he failed to disclose the value of those shares and/or any dividend income that he receives. CKO also did not disclose whether he has other properties from which he could derive rental income.²¹

21 I noted that CKP is not without means. CKP has cash savings of about \$500,000 and shares worth about \$100,000.²² Her net monthly salary had increased from \$1,685.35 (at the time of the ancillary matters hearing) to \$3,526.68.²³

²⁰ CKO2 at para 9(1).

²¹ Transcript (9 November 2020) at pp 50 and 51.

²² Transcript (9 November 2020) at p 32.

²³ DS1 at para 22; Defendant's Ancillary Matters Fact and Position Sheet at p 11.

22 Second, I considered CKO's fresh financial commitments to his new family as a result of the remarriage. As regards remarriage, the High Court in *George Sapooran* (at [39]–[40]) made the following salient observations which are worth quoting extensively:

39 It must be remembered and emphasised that remarriage is not a free pass to avoiding pre-existing financial obligations owed to the family from an earlier marriage. It seems settled law that remarriage *per se* should and does not affect or compromise the pre-existing obligations that a husband owes to the wife and children from a previous marriage. That said, the fact that the husband has fresh financial commitments to his new family as a result of remarriage could be a factor in the investigation into whether there has been a material change of circumstances. It must not be forgotten that the Women's Charter recognises, in s 46, that the foundation of the union of marriage is consortium – the obligation that is imposed on spouses to co-operate and support each other, safeguard the union and provide for the children of the marriage. This manifests itself in part in an obligation on the husband under s 69 to maintain the wife and under s 68 for the parents to provide for the children. The remarriage of the husband brings into play these obligations as regards his new family. *These obligations will obviously have to be balanced against the pre-existing obligations to the family from the previous marriage.* While severance of the consortium through divorce does not impact the obligations to the children, at least until they are able to sustain themselves, the position of the wife is perhaps not quite the same. In this regard, it must also be remembered that the purpose of maintenance for the wife from the previous marriage is financial preservation, *ie* to assist her to transit to a post-divorce life as she has been economically disadvantaged by the erstwhile role of homemaker and the consequent reduction or loss of earning capacity. A balance therefore has to be struck and a new equilibrium achieved between the countervailing demands placed on the husband by his family from the previous marriage and his present family.

40 However, as the obligations to the new family are assumed in the context of pre-existing obligations to the earlier family, **it is axiomatic that the reasonableness of the former and indeed the reasonableness of the husband's conduct in assuming or incurring them, must be examined with rigour where they are relied on to vary the latter.** The court must be persuaded that the effect of those commitments is such that they cripple or emasculate the husband's ability to

perform his pre-existing obligation to the family from the previous marriage. Accordingly, the reasonableness of the conduct in assuming these obligations and the reasonableness of the amounts involved assume primacy. In making that assessment, without attempting to be exhaustive, the court's approach ought to be dictated by the reasonableness of the husband's conduct as examined from three facets:

- (a) The reasonableness of the commitments that the husband has assumed whether as regards his new family or otherwise, bearing in mind the pre-existing obligations he owes to the family from the previous marriage;
- (b) Whether the husband and his new family have explored and exhausted all reasonable solutions that would enable him to perform his obligations on "both sides of the fence"; and
- (c) The financial circumstances and needs of the family from the previous marriage.

Accordingly, where an applicant expects sacrifices from the family from the previous marriage with no proportionate and corresponding adjustments by his new family, that would not in my view be reasonable. Further, where the husband has failed or refused to trim his own expenses so that he can "balance the books", that would in my view not be reasonable conduct as well. As a further illustration, where the husband has assumed liabilities which in the circumstances of his pre-existing obligation would be regarded as less than prudent or simply not necessary, that would not be reasonable conduct. For example, if the obligations have no material connection with the needs of the new family, it may be examined through a quite different lens. The court may very well be a lot less sanguine about accepting such conduct as being reasonable. Of course, the milieu should also include considerations of the needs of the family from the previous marriage. If their needs are not as dire and pressing as compared to that of the present family, an argument may exist for swinging the pendulum in favour of the latter. In the final analysis, it is a question of striking a balance between two competing obligations. ***The husband, having placed himself in this position, has to moderate and modulate both his and the expenses of his new family and make reasonable efforts to find reasonable solutions in order to enable him to perform his obligations to both families.***

[emphasis added]

23 I accepted that it is reasonable to expect the financial resources required to maintain [E] to increase as she grows older.²⁴ However, it should be noted that the obligation to maintain [E] is shared between CKO and [W]. This must be so in light of s 68 of the Women's Charter which sets out the *equal duty* of parents to maintain their children (see *TBC v TBD* [2015] 4 SLR 59 at [27]). In assessing CKO's obligation to his new family, I noted that [W] has a stable gross monthly income of about \$13,000.00.²⁵ While [W] has personal financial obligations to support her elderly parents who may have medical conditions,²⁶ it stands to reason that CKO's fresh financial obligations to his new family will not be as heavy as it would be if [W] had no income at all.

24 Third, I considered the parties' household expenses. As [C] and [D] live with CKO, CKO has been primarily responsible for maintaining them both.²⁷ While that has been the subsisting arrangement since the ancillary matters hearing, CKO submitted that [C] has recently been diagnosed with psychosis and this resulted in a significant expected increase in medical expenditure of the household.²⁸ I accepted that.

25 CKO claims that his monthly household expenses will be in the range of \$18,000.00 to \$19,000.00.²⁹ The calculation comprised the following:³⁰

²⁴ PS1 at para 35.

²⁵ Transcript (9 November 2020) at p 46.

²⁶ Plaintiff's Written Submissions dated 8 February 2021 ("PS2") at para 21(b).

²⁷ PS1 at para 32.

²⁸ PS2 at para 10.

²⁹ PS2 at para 15.

³⁰ PS2 at p 24.

S/No.	Item	Amount
1	Income tax (until July 2021)	\$2,744.00
2	Voluntary contribution to CPF	\$3,200.00
3	Property tax	\$65.00
4	Helper's salary (plus levy)	\$760.00
5	Insurance	\$660.00
6	Medication (for CKO)	\$128.00
7	Road tax	\$150.00
8	Car insurance	\$138.00
9	Car maintenance and repairs	\$200.00
10	Petrol	\$100.00
11	Renewal of COE	\$2,916.00
12	Temasek Club membership	\$32.00
13	Utilities	\$360.00
14	Singtel bill for home and mobile phone	\$170.00
15	Supermarket expenses (for the family)	\$1,500.00
16	Pharmaceuticals (for the family)	\$500.00
17	Clothes/shoes (for the family)	\$200.00
18	Dental (for the family)	\$100.00
19	Maintenance/repairs of the house and other miscellaneous expenses	\$200.00
20	[E]'s meals in school	\$40.00

21	[E]’s Chinese tuition	\$200.00
22	[D]’s NUS fees and allowance	\$1,000.00
23	[C]’s special needs consultant	\$2,000.00
24	[C]’s medication and doctor’s consultation fees for psychosis condition	\$1,000.00
	TOTAL	\$18,363.00

26 CKP claims that her monthly expenses are about \$4,940.00 which comprised the following:³¹

S/No.	Item	Amount
1	Household (food and groceries)	\$1,500.00
2	Transport	\$400.00
3	Food, entertainment and transport with [C] and [D]	\$650.00
4	Dental (for [C] and CKP)	\$100.00
5	Utilities	\$140.00
6	Internet and handphone	\$72.00
7	House maintenance and repairs	\$100.00
8	Conservancy charges	\$120.00
9	Property tax	\$25.00
10	Income tax	\$22.00
11	Part-time helper	\$200.00

³¹ DS1 at para 22; CKP Affidavit in Reply dated 6 October 2020 at para 62.

12	Clothes/shoes/bags etc (for [C] and CKP)	\$200.00
13	Hair cut/colouring and treatment	\$70.00
14	Facial and body massage	\$160.00
15	Supplements (knee joint supplements and multi-vitamins for [C] and CKP)	\$80.00
16	Insurance (CKP, [D] and [C])	\$500.00
17	Medical appointments/procedures	\$92.00
18	Medication	\$175.00
19	Piano tuning	\$14.00
20	Physiotherapy	\$320.00
	TOTAL	\$4,940.00

27 Each party alleges that the other party has exaggerated their calculations of their monthly expenses.³² For instance, CKP claims that CKO has grossly inflated his monthly expenses from \$3,944.74 to the range of \$18,000.00 to \$19,000.00.³³ In turn, CKO claims that it is an exaggeration for CKP's monthly grocery expenditure to be \$1,500.00 when that sum is the same estimate CKO uses for his household's grocery expenditure for five persons.³⁴

28 I did not find it helpful to conduct a granular analysis of each item claimed by the parties to be part of their monthly expenses. However, even adopting the broad-brush philosophy that courts generally adopt when dealing

³² DS1 at paras 54–55; Transcript (9 November 2020) at p 38.

³³ DS1 at paras 54–55.

³⁴ Transcript (9 November 2020) at p 38.

with financial matters in divorce proceedings (see *Fong Khai Yin v Mok Poh Yee Delia* [2013] SGHC 254 at [5]), I observed that some items claimed as part of the parties' monthly expenses (eg, voluntary contribution to CPF) are luxuries rather than necessities. To assist the court in doing justice, parties generally ought to restrict their calculations of monthly expenses to those which are reasonable.

29 For CKO's calculation of his monthly household expenses, I subtracted the income tax (\$2,744.00) as CKO has retired. I subtracted the voluntary contribution to CPF (\$3,200.00) since this is clearly a form of savings. I reduced the expense pertaining to the renewal of COE for ten years to \$291.67. This is the deemed monthly cost based on an estimated amount of \$35,000 paid for the COE renewal amortised over a ten-year period. This brought CKO's monthly expenses down to an estimated \$9,794.67.

30 When I compared CKP's monthly expenses to her income, there is a resulting shortfall for CKP of \$1,414.32 per month (based on her monthly expenses of \$4,940.00 less her net monthly salary of \$3,526.68). For a man with CKO's substantial means, he could well afford to pay CKP maintenance of \$1,500.00 per month given his earning capacity, savings and assets even with his adjusted monthly expenses being estimated at \$9,794.67.

31 Fourth, I considered the parties' respective health conditions. CKO submitted that his health condition which included diabetes, blockages in some arteries and vessels, early symptoms of glaucoma, high blood pressure, an irregular heartbeat, a high triglyceride level and high uric acid concentration will lead to a significant increase in his medical expenses in the near future.³⁵

³⁵ PS1 at para 38.

But what is sauce for the goose is sauce for the gander. While CKO's health condition may indeed result in higher medical expenditure, the same can be said for CKP as she ages. CKP suffers from major depressive disorder and anxiety disorder which require her to be on medication and there is the possibility of occasional relapses.³⁶ She also has knee problems causing her pain whenever she stands for long hours to teach.³⁷ I accepted CKP's submission that such increases in medical expenses as one ages were foreseeable at the time of the ancillary matters hearing.³⁸ Put simply, these are expected vicissitudes of life.

32 In the premises, I was satisfied that a downward variation of the Subsisting Maintenance Order to \$1,500.00 was fair and just having regard to all the circumstances of the case.

The date the order should take effect

33 As the Court of Appeal stated in *AXM v AXO* [2014] 2 SLR 705 (at [26]), the court varying a maintenance order has the power to backdate the variation and in so doing give it retrospective effect. In such cases, the court has a discretion to meet the justice of the case (see *TYA v TYB* [2018] 3 SLR 1170 at [69]).

34 CKO submitted that any variation of the Subsisting Maintenance Order should take effect from 31 August 2020 (*ie* the date CKO lost his employment) or, alternatively, from 9 November 2020 (*ie* the date on which the order to vary the Subsisting Maintenance Order was given).³⁹

³⁶ DS1 at para 19.

³⁷ DS1 at para 21.

³⁸ DS1 at para 42.

³⁹ PS2 at paras 41–42.

35 In response, CKP submitted that CKO has not shown that he is in such “dire financial straits” that there is a need to backdate the downward variation of the Subsisting Maintenance Order.⁴⁰ Even if the downward variation were to commence from 31 August 2020, this would be a mere \$7,500.00 which is “*de minimis* to [CKO] and therefore no backdating of the variation is necessary”.⁴¹

36 I agreed with CKP’s submission that backdating was unnecessary because of the low quantum involved. Considering the financial resources of both parties, it would be fairer in the circumstances not to backdate the maintenance. Therefore, I ordered that the variation take effect on 1 December 2020.

Whether an end date should be specified

37 While the husband is *prima facie* obliged to maintain his former wife beyond his retirement and up to the former wife’s remarriage or the death of either party (see *Foo Ah Yan v Chiam Heng Chow* [2012] 2 SLR 506 at [17]), the law of maintenance does not seek to create situations of life-long dependency by former wives on maintenance from their former husbands (see *ATS v ATT* [2016] SGHC 196 at [34]).

38 CKO submitted that the Subsisting Maintenance Order should be varied such that any monthly maintenance is payable only until CKO reaches 62 years of age (*ie*, the statutory retirement age pursuant to the Retirement Age Act (Cap

⁴⁰ Defendant’s Written Submissions (Further Arguments) dated 14 February 2021 (“DS2”) at para 42.

⁴¹ DS2 at para 44.

274A, 2000 Rev Ed)).⁴² In response, CKP submitted that it was possible that CKO could continue working until 68 years or beyond.⁴³

39 After considering parties' arguments, I declined to specify an end date for the order. In this regard, I gratefully adopt Judith Prakash J's (as she then was) analysis in *Yow Mee Lan* (at [94]–[95]) as follows:

... The wife was given eight years maintenance as a lump sum on the basis that the husband was 52 at the time of the hearing and that having regard to the demands of his business using 60 years as his retirement age from active business and the upper limit of a lump sum award was appropriate ...

In my judgment, it is *highly speculative to put the husband's retirement age at 60 when he is working for himself and can carry on for as long as his health permits and his financial needs require*. He has a young family by his mistress and the chances are that if he can he will work beyond the age of 60 for at least four or five years, if not considerably more. Further, the husband if he were paying monthly maintenance could not expect to be relieved entirely from this obligation by reason of retirement. In the normal case of an order for the periodic payment of maintenance, the husband is able to go back to the court and ask for a variation of the order if his financial circumstances change for any reason including retirement. At that stage, the court will assess the parties' needs and assets and adjust the maintenance order so as to be fair to both parties. In some cases, it is possible that the maintenance order will be discharged entirely but this is not the most probable outcome of such a variation application. In any event, *prima facie*, the husband's obligation to maintain the wife would continue beyond his retirement and up to her remarriage or the death of either party.

[emphasis added]

40 Similarly, I am of the view that it would be highly speculative to assume that there would be a material change of circumstances simply because CKO reaches 62 years of age. Even though this may be the statutory retirement age,

⁴² PS2 at para 40.

⁴³ DS2 at para 40.

it is not uncommon for lawyers to continue working so long as their health may permit. This is so especially since CKO has to provide for [E] who is now only 8 years old. In my judgment, the fairer solution would be for CKO to seek a rescission of the order if it is required at the appropriate time in the future.

41 In conclusion, I allowed SUM 3498 and varied the monthly maintenance downwards to \$1,500.00 effective from 1 December 2020.

42 The parties are to bear their own costs.

Chan Seng Onn
Judge of the High Court

Deborah Evaline Barker SC and Chai Rui Min, Angela (Withers
KhattarWong LLP) for the plaintiff;
Lim Poh Choo and Lee Wan Sim (Alan Shankar & Lim LLC) for the
defendant;
