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Cheryl Koh

District Judge

15 February 2024

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2024] SGFC 12

Divorce Suit No. 3942 of 2022

District Court Appeal No. 113 of 2023

Between

WUK

... Plaintiff

And

WUL

... Defendant

And

WUM

... co-Defendant

GROUND OF DECISION

**[Family Law] — [Contested Divorce] - [Adultery] - [Unreasonable
behaviour] - [Section 95(3)(a) & (b) of the Women's Charter (Cap. 353)]**

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WUK

v

WUL and WUM

[2024] SGFC 12

Family Justice Courts — Divorce Suit No 3942 of 2022

District Judge Cheryl Koh

19 July 2023, 5 & 6 September 2023 and 09 November 2023

15 February 2024

District Judge Cheryl Koh:

A. Introduction

1. These are parties’ contested divorce proceedings.
2. The Plaintiff wife (the “**Wife**”) sought for the marriage to be dissolved on her claim of the Defendant husband (the “**Husband**”)’s adultery and/or unreasonable behaviour. The Husband sought for the marriage to be dissolved on his counterclaim of the Wife’s unreasonable behaviour.
3. On 9 November 2023, I dissolved the marriage based on the Wife’s claim of the Husband’s adultery and dismissed the Husband’s counterclaim of the

Wife's unreasonable behaviour. I also made no orders on the Wife's claim of the Husband's unreasonable behaviour. On 15 November 2023, the Husband appealed against my decision.

4. The issues that arise in the case are:
 - a. whether the Wife has proven that the Husband had committed adultery and the Wife found it intolerable to live with him; and/or
 - b. whether the Wife has proven that the Husband had behaved in such a way that the Wife could not reasonably be expected to live with him; and
 - c. whether the Husband has proven that the Wife had behaved in such a way that the Husband could not reasonably be expected to live with her.
5. In this case, it is not disputed that by April 2022, the Husband had emotionally checked out of the marriage, signed up for a dating app Coffee Meets Bagel, started dating the co-Defendant Ms. D, and initiated separation with the Wife. However, did the Husband commit adultery with Ms. D during the instances captured by the Wife's private investigator? Was it the Wife who had behaved such that the Husband could not reasonably be expected to live with her leading him to start his affair with Ms. D, or was it the Husband's unreasonable behaviour that had caused the breakdown of marriage?

B. Background facts

Parties

6. Parties were married in Hong Kong on 8 February 2003. Interim Judgment was granted herein on 9 November 2023. This is hence a marriage of about 21 years.
7. There are three (3) children in the marriage: one biological child to the marriage, a daughter named “A” born in 2006 and currently about 17 years old studying in Singapore. The Wife also has 2 daughters of a previous marriage: (a) “B” aged around 30 years old and currently living in Europe; and (b) “C” aged around 25 years old and currently living in the United Kingdom. The Husband became a stepfather to B and C after this marriage. Since 2001, parties had co-habitated and B and C (who were then aged 8 years and 3 years respectively) lived with them.
8. The Husband is 50 years old and a British citizen. He is employed as the head of growth in a Japanese global advertising agency. He is the sole breadwinner of the family and earned around \$34,000.00 per month or close to half a million dollars per year. The Wife is 62 years old and a Hong Kong citizen. She is and has been a homemaker at all material times. Both parties are Singapore permanent residents.
9. The co-Defendant to the Wife’s claim of adultery is Ms. D, who is a local Chinese aged around 43 years old. She met the Husband through a dating app, Coffee Meets Bagel. She neither entered appearance nor appeared as a witness in these proceedings.

10. Parties lived in Hong Kong until around 2016 when the Husband was retrenched and parties moved to Phuket, Thailand. In or around 2017, the Husband joined a start-up founded in Singapore and travelled to Singapore for work from Mondays to Thursdays. In or around 2019, parties moved to Singapore. In or around September 2020, the Husband became employed by his present employer.

Events leading to the present proceedings

11. The Wife's case was that parties always had a loving marriage and even celebrated Christmas 2021, her birthday on 31 January 2022 and their wedding anniversary on 8 February 2022. Whilst parties had disagreements throughout the marriage, these were not major and were resolved. However, since March 2022, the Husband had a drastic change in behaviour towards the Wife: (a) he started to verbally attack her by finding fault with her - he complained whenever he saw her rest and looked at her laptop, claimed she did not perform household chores to his expectations and accused her of spending unreasonably; (b) he began to take pains in his dressing and bought a new wardrobe, started to keep late nights and became secretive about who he was with; (c) he began to engineer a separation between parties and on 10 May 2022, informed the Wife that he wanted to live separately. He gaslighted her by concocting incidents and blamed her for causing him unhappiness; and (d) he also became penny pinching and calculative towards her.

12. It was around this time on 18 May 2022 that the Wife discovered intimate WhatsApp chats between the Husband and the co-Defendant, Ms. D. On 27 May 2022, the Wife engaged a private investigator, a Mr. E, to conduct surveillance on the Husband. The Wife's private investigator produced

evidence of the Husband behaving intimately with Ms. D on various occasions between 27 May 2022 and 2 July 2022, including kissing, hugging and caressing each other in public, staying in Ms. D's condominium residence for many hours and spending a 3-day 2-night staycation in [S] hotel. It then made sense to the Wife why the Husband had started to find fault with her at every turn and wanted out of the marriage - his intention was to pursue his newfound love interest.

13. In June 2022, the Husband arranged for parties to move out into separate apartments. The Wife eventually moved into her new rented apartment with parties' daughter, A, in August 2022.
14. The Husband's case was that the marriage had been full of lies, deceit and anger from the Wife. He was initially working hard not to let arguments escalate but on 8 March 2022, the Wife took umbrage at a work initiative asking for pictures and videos of husbands and male partners doing housework, and did not speak to him for two (2) weeks. At the end of March 2022, the Wife informed him that unless he changed, she would move to Taiwan in two (2) years after their daughter, A, finished high school and he could do whatever he wanted. The Husband felt the Wife was ending the marriage, and he decided to reinvent himself and socialize with more people. He signed up to a dating app, Coffee Meets Bagel, to meet new people. He then met the co-Defendant, Ms. D, on the app. He however denied that he had sexual intercourse with Ms. D. In fact, Ms. D told him she did not wish to have sex with any future partners prior to marriage. He and Ms. D had gone on a staycation to [S] hotel from 30 June to 2 July 2022 as he had already told the Wife more than six (6) weeks prior (i.e., on 10 May 2022) that the marriage was over.

The present proceedings

15. On 27 August 2022, the Wife filed for divorce based on the Husband's adultery and/or unreasonable behaviour. On 21 September 2022, the Husband filed a counterclaim based on the Wife's unreasonable behaviour.

16. Parties filed the following pleadings and affidavits of evidence in chief ("AEIC") herein:
 - a. the Wife's Statement of Claim and Statement of Particulars;
 - b. the Husband's Defence and Counterclaim;
 - c. the Wife's Reply and Defence to Counterclaim;
 - d. the Husband's Reply to Defence to Counterclaim;
 - e. the Husband's AEIC;
 - f. the affidavit of the Husband's transcriber containing the certified transcript of parties' conversation on 10 May 2022;
 - g. the Wife's AEIC; and
 - h. the AEIC of the Wife's private investigator, Mr. E.

17. The trial of the contested divorce proceedings was heard before me on 19 July 2023 (half day), 5 September 2023 (full day) and 6 September 2023 (half day). During the trial, the Wife had two (2) witnesses, namely, herself and her private investigator, Mr. E. The Husband was his only witness. As stated, the co-Defendant Ms. D neither entered appearance nor appeared as a witness in these proceedings.

Summary of parties' cases

18. The Wife case is that the Husband's adultery with the co-Defendant, Ms. D, as set out in [12] herein and/or unreasonable behaviour as set out in [11] herein had caused the breakdown of marriage.
19. The Husband denied he had committed adultery or behaved unreasonably. He alleged that it was the Wife's unreasonable behaviour that had caused the breakdown of the marriage, as follows:
 - a. the Wife had subjected the Husband to lies, deceit and anger. She had a bad temper and refused to acknowledge the Husband's contributions to the household chores;
 - b. the Wife made threats against the Husband and did not trust him; and
 - c. the Wife had spendthrift behaviour and was financially irresponsible.

C. Grounds of Decision

The law on adultery

20. Section 95(1) of the Women's Charter (Cap. 353) states that either party to a marriage may file a writ for divorce on the ground that the marriage has irretrievably broken down.
21. The court hearing such proceedings shall, so far as it reasonably can, inquire into the facts alleged as causing or leading to the breakdown of the marriage and, if satisfied that the circumstances make it just and reasonable to do so,

grant a judgment for its dissolution: section 95(2) of the Women’s Charter. In considering whether it would be just and reasonable to grant a judgment, the court shall consider all the circumstances, including the conduct of the parties and how the interests of any child or children of the marriage or of either party may be affected if the marriage is dissolved, and it may make an interim judgment subject to such conditions as the court may think fit to attach; but if it should appear to the court that in all the circumstances it would be wrong to dissolve the marriage, the court shall dismiss the proceedings: section 95(4) of the Women’s Charter.

22. A marriage is considered to have broken down irretrievably if the defendant has committed adultery and the plaintiff finds it intolerable to live with the defendant: section 95(3)(a) of the Women’s Charter.

23. In *Koh Teng Lam v Elsie Chen Chee and anor* [1975] SGHC 18, the Singapore High Court affirmed the English decision of *Ross v Ross* [1930] AC 1 on adultery, at [7]:

“Adultery is essentially an act which can rarely be proved by direct evidence. It is a matter of inference and circumstance. It is easy to suggest conditions which can leave no doubt that adultery has been committed, but the mere fact that people are thrown together in an environment which lends itself to the commission of the offence is not enough unless it can be shown by documents, eg letters and diaries, or antecedent conduct that the association of the parties was so intimate and their mutual passion so clear that adultery might reasonably be assumed as the result of an opportunity for its occurrence ...”
(emphasis added).

The law on unreasonable behaviour

24. A marriage is further considered to have broken down irretrievably if the defendant has behaved in such a way that the plaintiff cannot reasonably be expected to live with the defendant: section 95(3)(b) of the Women's Charter.
25. In *Wong Siew Boey v Lee Boon Fatt* [1994] 1 SLR(R) 323, the then Honourable Judicial Commissioner KS Rajah laid down the following principles:
- (a) whether the defendant's behaviour has been such that the plaintiff can no longer reasonably be expected to live with him is essentially a finding of fact, and the courts have avoided categorising conduct as guilty or blameless in the abstract [at (8)];
 - (b) the test is whether this petitioner, with his or her character and personality, with his or her faults and other attributes, good and bad, and having regard to his or her behaviour during the marriage, can reasonably be expected to live with this respondent: Bagnall J in *Ash v Ash* [1972] 1 All ER 582 at 585 (at [10]); and
 - (c) the particulars taken together must amount to more than a complaint that the parties are incompatible, that they no longer have anything in common and cannot communicate or that one of them is bored with the marriage. Behaviour in this context must, as Baker P put it in *Katz v Katz* [1972] 3 All ER 219 at 223 be: "... *something more than a mere state of affairs or a state of mind, for example, a repugnance to sexual*

intercourse, or the feeling that the wife is not reciprocating the husband's love or not being as demonstrative as he thinks she should be. Behaviour in this context is action or conduct which affects the other. Such conduct either take the form of acts and omissions or may be a course of conduct and, in my view, it must have some reference to the marriage" (at [12]).

26. In *Chen Stella Yfantidis v Chen Yun Hian Christopher* [2004] SGDC 35, the court considered the general principles of pleadings in matrimonial cases and held at [23] as follows:-

"In the context of unreasonable behaviour particulars:

*...3. Each type of unreasonable behaviour would constitute a material fact, and must be pleaded. In addition, if a particular type of unreasonable behaviour is pleaded, then **the date and time and a brief nature of each incident of that type of unreasonable behaviour would be material facts...**"* (emphasis added).

27. Further, underpinning section 95(6) of the Women's Charter is the concept of forgiveness. Section 95(6) considered whether the plaintiff had lived with the defendant for a period of 6 months or more after the last incident complained of, for the purpose of determining whether the plaintiff could reasonably be expected to live with the defendant. In *VBZ v VCA* [2019] SGFC 119, the court discussed the application of this provision:

"15 ... According to the husband, he reconciled with the wife and parties then stayed together as a family from June 2017. Hence, the incidents he referred to prior to June 2017 were forgiven as parties reconciled and in any event, exceeded the 6 month period referred to in

Section 95(6) as the parties stayed together until the husband moved out in July 2018, specifically, 19 July 2018.

16 In any event, according to the husband, the marriage did not appear to suffer any major incidents until an incident which the husband said occurred in December 2017 as set out in paragraph 61 of his AEIC... Bearing in mind Section 95(6) of the Charter, the husband's case of the wife's unreasonable behaviour must, on application of Section 95(6) of the Charter as well as his evidence of reconciliation, be premised on events occurring after December 2017.

17 I explain: Any incidents he referred to prior to December 2017 would have been forgiven/condoned with his staying on in the marriage with the wife, continuing in the marriage and specifically, reconciling with her. The weight to be placed on incidents prior to December 2017 would be minimal in the circumstances, if at all, bearing in mind the applicability of Section 95(6)" (emphasis added).

28. In *VRN v VRO* [2021] SGFC 54 (Tab L PBOA), the same District Judge who heard *VBZ v VCA* took the opportunity to revisit and expound on the said decision at [33]:

*"33 The husband also referred to VBZ v VBA [note: 45]. In the case cited, the plaintiff did not succeed because the parties continued to live together. However, I clarify that the facts of that case are entirely different. Counsel's reliance on that case and the application to this case is erroneous. I explain. In that case, the plaintiff relied on incidents and events which allegedly supported his claim of the wife's unreasonable behaviour over wide ranging periods of time. However, **in that case, after a particular period of incidents and events, the plaintiff 'forgave'***

the defendant the conduct complained of and reconciled with her. Whilst there is no similar reference to the concept of condonation as set out in Section 95(3)(a), the effect was the same. The plaintiff did not succeed and could not refer to the incidents/events because of these reasons. In evidence, the plaintiff wanted to salvage the marriage and specifically reconciled with the wife. That plaintiff could not say that he could not reasonably be expected to live with that defendant on that specific factual matrix unique to their marriage and their case” (emphasis added).

Issue 1: Whether the Husband had committed adultery

29. I found that the Wife has proven, on a balance of probabilities, that the Husband had committed adultery and she found it intolerable to live with him.

30. The Husband argued that neither the Wife nor the private investigator, Mr. E, had produced any direct evidence of the Husband having sexual intercourse with the co-Defendant. This is not disputed by the Wife. In my judgment however, and as discussed in [23] herein, adultery is rarely proven by direct evidence and is usually a matter of inference and circumstance. Mr. E explained that in order for him to obtain a private investigator licence, he had to attend a training course by the Singapore police on how to collect evidence of adultery: when the subjects were at a public place, he could obtain intimate shots of them (a) holding hands, hugging or kissing, (b) of them proceeding to a private place (e.g., a house or a hotel), and (c) of them remaining at the private place for a period of time. However, he could not attempt to enter the private place to obtain shots of them doing sexual acts

as that would amount to trespass¹. As such, it is unsurprising that Mr. E could not enter Ms. D's residence or their hotel room in [S] to obtain actual evidence of sexual intercourse between the Husband and Ms. D.

31. Instead, the test for adultery is whether it can be shown by documentary evidence or antecedent conduct that the association of the parties was intimate and their mutual passion clear such that adultery might reasonably be assumed by the court as the result of an opportunity for its occurrence: see [23] herein.

32. In this case, I find that adultery is reasonably assumed as the result of several opportunities for its occurrence, based on the following evidence. *First*, it is not disputed that by April 2022, the Husband had signed up on the dating app, Coffee Meets Bagel. His evidence is that he texted Ms. D on WhatsApp on 5 April 2022 (which meant that he was chatting with her on the app before that), had a video call with her on 8 April 2022 and met her in person on 18 April 2022. Under cross-examination, he admitted that by 19 May 2022, he had met Ms. D quite a few times and was messaging her a lot. He accepted his messages to her were flirty and cheeky, he found her physically attractive², he was trying to build a romantic relationship with her³, and that had in fact kissed her by then⁴:

“I wish we were having this conversation over table in person looking at each other. Learning and understanding through seeing each other. Talking, breathing, touching and more than occasionally kissing” to

¹ Notes of Evidence (“NE”) dated 05.09.2023; 29:05 to 30:14

² NE dated 06.09.2023 13:12 to 14:11; 16:20

³ *Ibid*,15:28; 17:02

⁴ *Ibid* 18:02

which she replied, *“Well, we will be, tomorrow!”* and he replied *“Great. I was going to remind you 5.30 tomorrow at Natureland”*;

“Looking forward to watching you sleep for 45mins tomorrow” “Night night Princess Peace!”,

She texted *“shower in 8mins”* to which he responded *“Nice. Am I allowed to imagine that too? Slap me down if you need.”*

In my judgment, the Wife has shown that by May 2022, the Husband had formed a romantic relationship with Ms. D that went beyond mere friendship, and which formed the foundation for their improper association and commission of adultery as discussed below.

33. *Second*, after the Wife discovered the Husband’s WhatsApp messages to Ms. D on 18 May 2022, she hired a private investigator to conduct surveillance on the Husband. The private investigator, Mr. E, produced photographs and video evidence of the Husband’s intimate and passionate conduct with Ms. D on 27 to 28 May 2022, 10 June 2022, 11 June 2022, 30 June to 2 July 2022: acts of kissing, hugging, embracing and caressing each other and significantly, remaining for several hours at Ms. D’s residence on 10 and 11 June 2022 and spending a 3-day 2-night staycation at [S] hotel where they had several opportunities to consummate their passion. The Husband accepted that he and Ms. D were the persons captured in the private investigator’s evidence. He further accepted under cross-examination that:

27 May 2022

- a. he and Ms. D had dinner at an Italian restaurant at Telok Ayer from 8.53PM to 10.42PM⁵. He held her hand and kissed it⁶;
- b. after they left the restaurant, they were seen kissing and hugging⁷;
- c. at 10.46PM, they were seen hugging along Telok Ayer Road and the Husband used his hand to stroke Ms. D's head and back⁸;
- d. at 10.48PM, they headed towards Telok Ayer Park while holding hands⁹; They sat on a swing and were kissing¹⁰. They left around 12.04AM;
- e. that meant for almost four hours from 9.15PM to 12.04AM, they were kissing, hugging, touching and holding hands¹¹;

10 June 2022

- f. they were seen leaving Chijmes and were kissing, hugging and holding hands while waiting for their vehicle¹²;
- g. at 8.13PM, they alighted at Ms. D's condominium residence¹³. Mr. E's evidence is that around three hours later at 11.00PM, as there was no sign of them leaving Ms. D's residence, Mr. E called off the surveillance.

⁵ *Ibid* 18:17

⁶ *Ibid* 19:14 to 18

⁷ *Ibid* 20:15

⁸ *Ibid* 21:20; 22:3

⁹ *Ibid* 22:32

¹⁰ *Ibid* 25:22

¹¹ *Ibid* 28:23

¹² *Ibid* 29:26 to 30:10

¹³ *Ibid* 31:17

Hence, on 10 June 2022 from 8.13PM to at least 11.00PM, a **first** opportunity arose for the Husband and Ms. D to consummate their passion in Ms. D's residence;

11 June 2022

- h. at 5.13PM, they met near Orchid Hotel and were seen kissing¹⁴;
- i. they went for dinner and then headed to Ms. D's condominium residence¹⁵. They arrived around 7.57PM;
- j. he remained in Ms. D's residence with her until at least 12 midnight¹⁶;
- k. Mr. E's evidence is that at 12.40AM, as there was no sign of them leaving Ms. D's residence, he called off the surveillance.

Hence, on 11 June 2022 from 7.57PM to at least 12.40AM the next day, a **second** opportunity arose for the Husband and Ms. D to consummate their passion in Ms. D's residence;

- l. the Husband's evidence is that he was in France for work from 16 to 24 June 2022¹⁷;

30 June 2022

- m. he and Ms. D had a staycation in [S] hotel from 30 June to 2 July 2022¹⁸;
- n. during the staycation, they shared many intimate moments and partook in couple activities together, such as kissing and hugging in the

¹⁴ *Ibid* 32:14

¹⁵ *Ibid* 34:04

¹⁶ *Ibid* 34:07

¹⁷ DAEIC para 4.33

¹⁸ NE dated 06.09.2023 36:12

swimming pool, drinking at the hotel lounge and having all their meals together¹⁹.

- o. when they were checking into the hotel, Ms. D placed her hand on the Husband's knee while the Husband touched her hand²⁰;
- p. at 4.33PM, they went to the lift lobby and were hugging, and went up to a private hotel room where they were alone for around three (3) hours until they left the hotel at 7.12PM²¹.

Hence, on 30 June 2022 from 4.33PM to 7.12 PM, a **third** opportunity arose for the Husband and Ms. D to consummate their passion in the hotel room;

- q. at 10.00PM, they returned from a dancing studio back to the hotel room where they spent the night together²².

Hence, on 30 June 2022 overnight, a **fourth** opportunity arose for the Husband and Ms. D to consummate their passion in the hotel room;

1 July 2022

- r. Mr. E's evidence was that on this day, the Husband and Ms. D had breakfast, lunch, dinner, spa and drinks at the hotel together;
- s. while having meals or drinks with Ms. D, Ms. D was lying on the Husband's shoulder and he caressed her arm²³;

Mr. E's evidence was that from 7.30PM to 9.06PM, they also spent about 1.5 hours in the hotel room together. Hence, on 01 July 2022 evening, a

¹⁹ *Ibid* 41:06

²⁰ *Ibid* 36:29 to 32

²¹ *Ibid* 41:25 to 42:4

²² *Ibid* 42:22

²³ *Ibid* 38:10 to 39:04 to 39:26

fifth opportunity arose for them to consummate their passion in the hotel room;

- t. at 9.54PM after dinner, they went to the swimming pool where they spent the next two (2) hours in the pool kissing and hugging;
- u. around 10.56PM, she wrapped her arms around him and hugged him²⁴;
- v. she then wrapped her legs around his neck and put her feet on his shoulders²⁵;
- w. he then moved his body toward her while she was pressed against the side of the pool and moved again with her hands stroking his head and back²⁶;
- x. he bobbed up and down against her and shared a kiss²⁷. He said his legs were floating behind him;
- y. at 11.26PM, Ms. D climbed up and sat on the Husband's lap²⁸ facing him. She stroke his face and neck. While sitting on him and hugging him, she then moved up and down against him²⁹;
- z. at around 11.30PM they got out of the pool and at 11.40PM, they returned to their hotel room³⁰.

Hence, on 1 July 2022 overnight, a **sixth** opportunity arose for them to consummate their passion in the hotel room;

²⁴ *Ibid* 48:17 to 28

²⁵ *Ibid* 49:23

²⁶ *Ibid* 50:01 to 50:05

²⁷ *Ibid* 50:22 to 28

²⁸ *Ibid* 50:22 to 28

²⁹ *Ibid* 51:4 to 52:4

³⁰ *Ibid* 52:17 to 53:8

2 July 2022

aa. at 3.00AM, as there was no further sighting of them, Mr. E called off the surveillance. When he returned in the morning, they were seen checking out of the hotel after breakfast.

34. The Husband accepted that his relationship with Ms. D was physical in nature but denied sexual intercourse. He referred to a WhatsApp message from Ms. D to him on 11 May 2022 stating that she had promised God she would abstain from sex until marriage³¹.

35. In my judgment, it is clear from the above evidence in [32] and [33] herein that the Husband's conduct with Ms. D was so intimate and passionate that it may reasonably be inferred that the Husband had committed adultery with Ms. D when the six above-stated opportunities in [34] arose for its occurrence. They were in a romantic relationship where the Husband found Ms. D physically attractive. They partook in couple activities together such as going for a hotel staycation, going to the spa, going dancing, and having all their meals together during the staycation. In public places like restaurants, public roads, a public park and a hotel swimming pool, they engaged in acts of necking and petting like kissing, hugging, caressing and stroking each other, wrapping their arms around each other, pressing their bodies against each other and making movements up and down; they could not keep their mouths and hands off each other and their public displays of affection and passion were ardent and evident. When alone in private places like in Ms. D's residence and the hotel room in [S], it may thus be reasonably

³¹ *Ibid* 52:17 to 53:8

inferred that they would culminate their passion and engage in even more physically intimate acts including sexual intercourse.

36. While the Husband relied on Ms. D's pronouncement of sex abstinence before marriage, Ms. D was not called as a witness to testify on the vow and whether she had kept to it in these proceedings. In the same message, she referred to making the decision a mere week prior and was still figuring it out; hence, that message was not reliable to prove that they did not engage in sexual intercourse several weeks later in June 2022. Even if I gave the Husband the benefit of the doubt and found that their impassioned acts of kissing and hugging in public might not necessarily translate into sexual intercourse in private during the first five opportunities on 10, 11 and 30 June and 1 July 2022, it is not possible to make such a finding for the sixth opportunity on 1 July 2022. This is because I place significant weight on the Husband's and Ms. D's bold acts of engaging in erotic frolic and foreplay in the hotel swimming pool on 1 July 2022 for around two (2) hours, where (a) Ms. D wrapped her legs around the Husband's neck and put her feet on his shoulders; (b) the Husband moved up and down or towards and away against Ms. D in a repeated and rhythmic manner; (c) Ms. D sat on the Husband's lap and moved up and down against him in a repeated and rhythmic manner; and (d) after engaging in these movements, they headed up to their hotel room. Such up and down or towards and away repeated and rhythmic movements of their bodies were suggestive of the act of sexual intercourse, and demonstrated a strong propensity or inclination towards copulation. When they headed to the hotel room, they had the immediate opportunity to translate these movements into actual copulation movements. While the Husband said he was floating with his legs behind him during these movements against Ms. D in the pool, it was very odd that he would

float in such a suggestive and erotic manner. In my view, the intensity of their sexual desire and tension was so palpable that it must lead to the reasonable inference that they had translated these sexual movements in the swimming pool into copulation movements when they were alone in their hotel room. The Husband is not able to discharge any evidential burden that he did not in fact have sexual intercourse that night.

37. It must be borne in mind that the Wife's burden of proof is one of a balance of probabilities in a civil case, and not beyond reasonable doubt in a criminal case. She did not need to prove the act of sexual intercourse had **without a reasonable doubt** taken place, for instance, by having the private investigator obtain photographic/videographic recordings of the Husband and Ms. D in the act, or obtaining written/oral confessions of the act. In other words, she only needed to persuade the court that **more likely than not**, adultery had taken place. In family cases, the oft-relied upon evidence for adultery is circumstantial evidence such as the private investigator's report capturing the adulterous pair's public displays of affection and passion, together with the private opportunities for consummation of their passion. To require anything more (such as the private investigator to enter private places to catch the pair in the act) would transgress the boundaries of law. In this case, the private investigator had managed to capture the Husband and Ms. D engaging in several acts of intimacy and passion, including up and down sexual movements in the hotel swimming pool on 1 July 2022, which must lead to the reasonable inference that they had, **more likely than not (and not most likely, most definitely or most conclusively)**, translated these movements into actual copulation movements when they went up to their hotel room. In these circumstances, I find that the Wife has discharged her burden of proof of adultery on a balance of probabilities.

38. As I have allowed the Wife's claim on the Husband's adultery, I did not find it necessary to examine her claim of his unreasonable behaviour and made no orders on the same. I would only observe that it is undisputed that by April 2022, the Husband had emotionally checked out of the marriage, signed up for a dating app, started to date Ms. D and proceeded to engineer separation between parties. I also add that given Mr. E's private investigation report, it cannot be challenged that the Husband is guilty of unreasonable behaviour by virtue of improper association with Ms. D.

Issue 2: Whether the Wife had behaved such that the Husband could not reasonably be expected to live with her

39. The next issue that arises is whether the Wife had behaved such that the Husband could not reasonably be expected to live with her. Specifically, whether it was the Wife's behaviour that had caused the Husband to emotionally check out of the marriage and start to date Ms. D. In my judgment, I do not find that the Husband has proven this to be the case on a balance of probabilities.

Lack of particulars of the Wife's unreasonable behaviour

40. As a preliminary point, I find that the Husband had not pleaded sufficient particulars of the Wife's unreasonable behaviour in his Counterclaim for her to answer to.

41. Each type of unreasonable behaviour should be pleaded, together with the date, time and a brief nature of that type of unreasonable behaviour: see [26] herein. In this case, the Husband set out the particulars of the Wife's unreasonable behaviour in paragraphs 23 to 32 of his Counterclaim. The

Husband made bare allegations that the Wife neglected him, yelled at him, gave him silent treatment, was disrespectful, and treated him as an ATM machine. No details are provided on the dates, times and description of each type of behaviour on the part of the Wife. He only raised one incident on 8 March 2022 in paragraph 25 therein where the Wife had allegedly taken umbrage at a work initiative on taking pictures and videos of husbands and male partners doing housework. This incident will be discussed below which I did not find constituted unreasonable behaviour on the part of the Wife. Nonetheless, even if this incident was proven, in my judgment, the particulars were still bare and insufficient for the Wife to answer to. The Husband did raise two (2) other incidents in his Reply to the Statement of Particulars, which was an incident at the end of March 2022 where the Wife had threatened to move to Taiwan³² and an incident relating to him paying for the Wife's travels between September to November 2021 to Europe and June to July 2022 to Hong Kong. Even then, these incidents relate to September 2021 onwards and do not particularize exactly how the Wife had behaved unreasonably towards him earlier. It is only in his AEIC that the Husband provided details relating to earlier incidents. The Wife's counsel thus chose not to cross-examine the Husband on most of his allegations of the Wife's unreasonable behaviour, and instead submitted that his claim ought to be dismissed for lack of sufficient particulars. I find that on the basis of the pleadings alone, the Wife has no case to answer. Notwithstanding this, for completeness, I shall proceed to examine the Husband's allegations to determine if the Wife had behaved such that he could not reasonably be expected to live with her.

³² Defence and Counterclaim para 5

Whether the Husband could reasonably be expected to live with the Wife

42. As a further preliminary point, I considered the Wife’s submission that any incidents of the Wife’s unreasonable behaviour raised by the Husband prior to December 2021 ought to be given little weight for the purpose of determining whether the Husband could reasonably be expected to live with the Wife. This is because the Husband had expressly reconciled with the Wife and evinced an intention to work on the marriage in December 2021. I found this submission to be of some merit.
43. In *VBZ v VCA* [2019] SGFC 119 (and as further explained in *VRN v VRO* [2021] SGFC 54) referred to in [27] and [28] herein, the court took into consideration that the husband had forgiven the wife and reconciled with her in June 2017, and stayed on in the marriage until he moved out in July 2018. The court held that the husband could not say that he could not live with the wife by relying on past incidents.
44. In this case, the Husband likewise sent a message to the Wife on 3 December 2021 containing a “love letter” taking the blame for disagreements in their marriage and resolving to reconcile with the Wife and salvage the marriage:
- a. he reiterated why he fell in love with her: *“I fell in love with you the first day I met you. You took my breath away. You made my heart jump. I had never felt that before. And at the time I should not felt that! The sight of you, your presence, your smell, everything about you. It was your aura, your personality, and your independence, Strong, and bold and you took no shit. And yes you were and are beautiful both inside and out. Loving you was easy...”*;

- b. took blame for much of their disagreements: *“We have been through a lot. A lot of good times but a lot of hard and challenging moments too. We have never shield away from disagreeing. I have always been 100% dedicated and focused to all that was our life, and the life of the girls, but I have not always been a good partner for you. My patience has been short, and we have not always seen eye to eye on many things. The last few years have been really hard. But I take the blame for much of that”*; and
- c. professed his love and made a commitment towards the Wife and the marriage: *“From today, I make a commitment to you. A commitment to listen. A commitment to be patient. A commitment to discuss and try to understand. A commitment to continue to love you unconditionally. As I always have. But we may still not always agree. That does not matter. As long as we both understand that. We will work through it all. We will discuss, we will disagree. But we will be together, and we will find a solution to everything. Why? Because I truly and deeply love you. And always will. Do not ever forget that.”*

45. Under cross-examination, the Husband admitted that he was at the time committed to make the marriage work³³. It is hence clear that as of December 2021, he did not find it intolerable to continue to live with the Wife; by an extension, any incidents of the Wife’s unreasonable behaviour raised by the Husband prior to December 2021 ought to be viewed with a lens of circumspection.

³³ NE dated 06.09.2023 04:30

Allegation that the Wife had a bad temper, subjected the Husband to lies, deceit and anger and refused to acknowledge his contributions to household chores

46. I do not find that the Husband has proven, on a balance of probabilities, that the Wife had a bad temper and was full of lies, deceit and anger.

47. The Wife's evidence was that the marriage was largely a happy and loving one, as reflected in the numerous photographs of parties and their children, and the Husband's handwritten cards and loving messages to the Wife over the years³⁴. The parties also enjoyed many celebrations with their family and friends over the years³⁵. As late as 8 February 2022, parties celebrated their wedding anniversary in Sentosa and took a photo side by side smiling³⁶. The Husband admitted under cross-examination that he had even bought a painting from an artist as a gift for the Wife in February 2022.³⁷

48. The Wife's position is that while parties had disagreements throughout the marriage like all couples do, they were not major and were resolved. However, after the Husband had moved to Singapore and became employed by his present employer with a good salary, he began to drink a lot and she produced photographs of him being passed out on the floor or table at home³⁸. By March 2022, he was keeping late nights from work, being secretive about who he was with, becoming conscious of his appearance by buying a new wardrobe, and finding fault with the Wife.

³⁴ PAEIC Tab A, Tab C

³⁵ PAEIC para 30

³⁶ PAEIC pg 69

³⁷ PAEIC pg 84; NE dated 06.09.2023 05:17

³⁸ PAEIC pg 58 to 66

49. The Husband relied on some other incidents - for example, he pleaded that he had witnesses who said that the Wife was rude and angry in Phuket³⁹; however, no such witnesses were produced in these proceedings. He said she berated the yacht owners for running out of champagne at his 40th birthday party some 10 years ago, which she denied⁴⁰.

50. Ultimately, I find that there is no evidence that parties' disagreements were caused by the Wife unreasonably:

- a. as early as in 2011, the Husband took the blame for their disagreements due to his work stress. He apologized in his email to the Wife⁴¹:

“I was tired, in pain and generally not in a good mood, as I was getting ready for two difficult calls. But that is not an excuse. I was simply tied up in my own issues and did not think about you and your day and what you were doing. I am sorry for that - deeply sorry”

“We are two very strong-willed people and when we argue neither of us appears to want to back down or admit we are wrong. And that is why we find ourselves where we are today, and why over the last few years we have got to this situation more than once before. We always argue over the negatives and not often enough celebrate the wonderful things we have as a couple and as a family. And for that I am sorry....”

³⁹ Reply to Defence to Counterclaim para 6

⁴⁰ Reply and Defence to Counterclaim para 6

⁴¹ PAEIC pg 40

- b. in 2020, the Husband admitted that he was the one who was short-tempered with her due to work stress⁴²:

“Things are hard with work for me... and financially we are in a tough place. I made some wrong decisions and trying to get back on top of it now. It’s making my temper short because I am just thinking about so many things.”

- c. in 2021, the Husband again admitted he was short-tempered with her due to work stress:

“My patience has been short, and we have not always seen eye to eye on many things. The last few years have been really hard. But I take the blame for much of that”; and

- d. under cross examination, he admitted that he was the one who was short-tempered with the Wife on many occasions⁴³.

It is hence clear that it was the Husband himself who was short-tempered with the Wife throughout the marriage. Even if the Wife was also bad tempered, I did not see how having a bad temper by itself without more could constitute unreasonable behaviour; otherwise, our courts would have to grant divorces based on the lack of a pleasant temperament or disposition on the part of parties.

⁴² PAEIC pg 170

⁴³ NE dated 06:09:2023 03:30

51. As for the Husband's allegation that the Wife refused to acknowledge his contributions to the household chores, he relied on an incident in March 2022. He alleged that the Wife had taken umbrage about a work initiative of taking photos and videos of husbands and male partners doing housework. The Wife's evidence was she responded jokingly "*then where was I when you did all this*", which had upset him as he felt that he did also contribute towards the household chores. The conversation became heated and she retreated into her bedroom to keep the peace. In my view, this amounted to a one off and minor dispute over household chores - each of them felt that the other did not appreciate their efforts towards the household chores, and it did not by itself prove that the Wife had contumeliously and unreasonably refused to acknowledge the Husband's housework.

52. Ultimately, particulars of unreasonable behaviour when taken together must amount to more than a complaint that the parties are incompatible or cannot communicate: see [25(c)] herein. By an extension of this logic, I would add that they should also amount to more than mere disagreements, disputes or differences in opinions/views between spouses; otherwise, it would lead to an opening of floodgates for divorces based on spouses being unable to get along in a marriage. Marriage involves compromise and give and take; a spouse cannot have his/her own way all the time and ultimately, significant decisions have to be taken for the joint benefit of the family, particularly the children. In this case, parties sometimes had differing views on certain issues: for instance, the Husband complained that he was pressured into agreeing for the Wife and A to move from Phuket to Singapore in 2019 as it was expensive in Singapore⁴⁴, but the Wife explained it was a joint

⁴⁴ DAEIC para 4.19

decision made for the welfare of A to have a better education in Singapore⁴⁵. In my view, the Husband as the sole financial provider could in fact call the shots on whether to move the family or not, but he ultimately did so for the sake of A. Such differences in opinion, however, did not in my view translate to unreasonable behaviour on the part of the Wife.

Allegation that the Wife made threats against him and did not trust him

53. As for the Husband's allegation that the Wife had made threats against him and did not trust him, he relied on an incident at the end of March 2022 where the Wife said that if he did not change, she would go to Taiwan and he could do whatever he wanted. He produced an audio recording of their conversation on 10 May 2022 to prove that the Wife had made such a threat. In my view, significant weight cannot be placed on this recording: on 10 May 2022 after he had already started dating Ms. D, he started to record this conversation, raising purported issues he had with the marriage as far back as 5 to 10 years ago, tried to obtain concessions from her and initiated separation into two separate apartments. In any event, it is not clear from the transcript that the Wife admitted making such a threat: she said in one part that she did not remember saying that⁴⁶. In her email to him dated 15 May 2022 in response to his email of 13 May 2022⁴⁷, she also said she did not remember her exact wording and probably that was what she said; but this email was written when she was in shock after his initiation of separation. She clarified in her subsequent email dated 30 May 2022⁴⁸ that she had made

⁴⁵ PAEIC para 15

⁴⁶ Affidavit of the Defendant's transcriber pg 2

⁴⁷ DAEIC pg 517 to 518

⁴⁸ PAEIC pg 87

apologies and taken responsibility because she was essentially pleading with him to stay. It is also in her evidence that she did want to travel to see her brothers in Taiwan after A left Singapore for university in the United Kingdom⁴⁹.

Allegation that the Wife was a spendthrift and financially irresponsible

54. I was also not persuaded that the Husband has proven, on a balance of probabilities, that the Wife was a spendthrift or financially irresponsible:

- a. the Husband has not produced any bank or credit card statements to prove exactly how much the Wife had allegedly overspent each month. He was the sole breadwinner of the family: he provided her with a cash allowance (at \$3,000.00 per month), paid her credit card bills and paid all expenses of the family⁵⁰. He was in complete financial control, and there is no evidence that he had ever told her to cut her spending, tried to reduce her cash allowance or curb her credit card limit;
- b. in the audio transcript on 10 May 2022, he referred to the Wife's expenditure as "*little bit here and on clothes. Bits you buy on Lazada, that aren't food, aren't things for the house*", "*the little things you buy on Lazada, the wasteful things you buy*", "*things for the cat*", "*a screen for the Christmas tree*" and "*useless pieces of plastic*"⁵¹. In my view, purchase of these small items on Lazada, without more details or evidence of the price or volume of such purchases, did not substantiate

⁴⁹ Reply & Defence to Counterclaim para 11; AEIC para 18.b

⁵⁰ DAEIC pg 40 para 13-14

⁵¹ Affidavit of the Defendant's transcriber pg 13

his allegation that the Wife was a spendthrift. The Husband earned close to half a million dollars per year, and it was not financially unreasonable for the Wife to do online shopping on Lazada;

- c. the Wife's evidence was that she was always careful to spend within their means and did not buy any jewellery or designer items. She bought basic clothes from H&M and Zara, and only had a Gucci bag and a few Tods bags gifted by the Husband over several birthdays⁵²; and
- d. in my view, the Husband has not shown that the Wife was behaving unreasonably in doing some online shopping, when in fact he had absolute financial control of the purse strings as the sole breadwinner (and could determine how much she could or could not spend) and earned some \$34,000.00 per month (which would allow the family to enjoy a certain level of spending).

55. The Husband further alleged that on top of solely maintaining the child of the marriage, A, he also had to solely maintain the Wife's daughters from her previous marriage, B and C. In my judgment, I did not see how the Husband's maintenance of A and his step-children, whom he accepted as children of the family, meant that the Wife had behaved unreasonably:

- a. when the Husband started co-habiting with the Wife in 2001, B was only 8 years old and C was only 2 years old. The Husband began to cover rental and food as monies from her then estranged husband was infrequent⁵³;

⁵² Reply and Defence to Counterclaim, para 10

⁵³ DAEIC para 4.1

- b. in his email to the Wife dated 20 December 2002 before parties were married, the Husband accepted that the Wife did not work:

“While it would make things more secure for all of us if you are working this really does not bother me. It is tough out there and not easy to get work - remember I was there not so long ago. But we are in a better position than most because one of us is working and can support all of us. It may not be easy or ideal but we can get through as a family that is what is import [sic]...

“the import [sic] thing is not what arrangements we make or we do not make, or who is working and who is not. It is that I love you and the girls more than you may even possibly imagine”(words in square brackets added) (emphasis added);

- c. in his message to the Wife dated 3 December 2021, the Husband acknowledged that when he met her, he felt that *“with [B] and [C] I had instantly what I actually wanted and needed, with no regrets whatsoever”* (words in brackets replaced);
- d. under cross-examination, he accepted that when he married the Wife in 2003, he knew she was not highly educated and that he would have to maintain her and her two (2) daughters financially⁵⁴;
- e. the Wife’s evidence was that it was a joint decision for her to be a homemaker and to focus on him and [A] while he went out to work⁵⁵. In fact, the Husband had not produced any evidence of him asking her

⁵⁴ NE dated 06.09.23 03:01 to 03:05

⁵⁵ PAEIC para 32

to go out to work and her refusing to do so. As such, I did not see how the Husband could now blame the Wife for being a homemaker in their twenty (21) year marriage and not paying for A, B and C. In fact, he could easily relocate with the family from Hong Kong to Phuket in 2016 and then Phuket to Singapore in 2019 for his career because the Wife was a homemaker without a job tying her down to a particular location.

56. The Husband further complained that the Wife did not enforce maintenance for B and C against her ex-husband save for one legal letter⁵⁶. However:

- a. it is clear from her email of 13 July 2006 to her ex-husband⁵⁷ that she had made repeated requests for maintenance arrears against him:

“My lawyer is preparing the necessary document this week. It will take a month or 2 for the court to process our case”;

“I have asked you many times and it’s been a long time that you refused to pay what you should.”

- b. her email also suggested that the Husband himself was involved in communications with her ex-husband on B’s and C’s maintenance:

“in your letter you’re saying [the Husband] has not responded to your letter since Feb. Why should he? Your saying that we didn’t compromise to your suggestion on paying \$10K. I found this ridiculous” (words in square brackets replaced).

⁵⁶ DAEIC para 4.2

⁵⁷ DAEIC pg 526

A legal letter was issued on 19 June 2006 to the ex-husband;⁵⁸

- c. the Husband has not produced any evidence of him requesting for the Wife to enforce maintenance against her ex-husband and her refusing to do so. There is also no evidence of him seeking legal advice on whether he himself could recover monies expended on B and C against their biological father;
- d. the Husband further complained that the Wife had sent her ex-husband monies in 2012 to 2013⁵⁹ but he has not offered details on how much these transfers were or produced evidence of the same. From the transcript of conversation recorded between parties on 10 May 2022, the Husband referred to two transfers of HKD5,000.00 (less than S\$1,000.00). He accepted that the ex-husband had no money and was in trouble⁶⁰. He also referred to the fact that the ex-husband had then stayed with them for Christmas ⁶¹, which suggested that their relationship with him was not so acrimonious;
- e. B had in fact gone to live with her biological father and his new wife for a period of time in Bali, hence he did play a part in taking care of her expenses when she was living with him in Bali; and
- f. in my view, the Husband has not proven that the Wife had unreasonably refused to enforce maintenance against her ex-husband for B and C.

⁵⁸ DAEIC pg 529

⁵⁹ DAEIC para 4.10

⁶⁰ Affidavit of the Husband's transcriber, pg 9 line 1

⁶¹ Affidavit of the Husband's transcriber, pg 8

57. The Husband further complained that he had to pay for B's expenses when she was already in fact 30 years old, including paying for the Wife's trip to Europe to see B from 27 September to 12 November 2021. I was also unable to accept how this constituted unreasonable behaviour on the Wife's part:

- a. B is someone whom the Husband had been a step-parent to since she was about 8 years old. Parties struggled with her upbringing over the years: at one point she went to live with her father in Bali, then fell out with her father and lived on her own in Bali, and eventually moved to Europe. She was also diagnosed with bipolar condition and depression. To pin the blame on the Wife for B coming to this state and not being financially independent at the age of 30 years would be most unfortunate;
- b. the Wife's evidence was that B had been drugged and raped in Amsterdam in 2021 and the Wife had to fly to Europe on an emergency basis. The Husband did not express unhappiness with the cost of the trip; in fact, he expressed appreciation of what the Wife was doing for B in his message to her in October 2021: "*Love you. And just know what an amazing mother doing what you are doing, It's hard and I am sorry for not being as supportive as I should have been with [B] in the last few years. [B] is so very lucky that you are you. I know that we are going to have to be there for [B] for the rest of our lives and I will be there with you*"⁶²(words in square brackets replaced); and

⁶² PAEIC pg 44

c. in fact, after October 2022, the Husband ceased financial support for B and the Wife had to borrow monies from her family to pay for B's expenses⁶³.

58. The Husband also complained about other incidents, for instance, paying for the Wife's trip to Hong Kong in June 2022 but the Wife's evidence was that this was planned for over a year to attend the wedding of her niece and the Husband had long offered to pay for the trip⁶⁴. As for his complaint that the Wife had rented an expensive apartment in June 2022, this was after he had already initiated separation; his messages showed that he agreed to the rental and proceeded to adjust the budget by cutting the Wife's and B's allowance instead⁶⁵.

59. Ultimately, the Husband was the sole breadwinner with absolute financial control and the Wife was the homemaker raising three (3) children in the family. If the Husband was indeed unhappy with the Wife's expenditure, he could decide what he would or would not pay for by, for instance, adjusting the cash allowance he gave to the Wife, setting credit limits on her cards, or declining to pay for certain expenses but there is no evidence he had ever done so; it therefore does not now lie in his mouth to complain that the Wife was a spendthrift and financially irresponsible. Indeed, for the court to hold that the Wife behaved unreasonably in not providing financial support for her children or doing some online shopping on Lazada would be serving an injustice to homemaker wives who give up the ability to earn an independent income to care for the children at home.

⁶³ PAEIC para 35

⁶⁴ DAEIC pg 546

⁶⁵ DAEIC pg 546

60. Hence, I am not persuaded that the Husband has proven any of his allegations of the Wife's unreasonable behaviour.

The Husband is grasping at straws to bolster his case

61. In my judgment, the Husband is in fact grasping at straws to bolster his case of unreasonable behaviour against the Wife. It is clear that by April 2022, he had emotionally checked out of the marriage by joining a dating app Coffee Meets Bagel and starting to date Ms. D. He deliberately recorded the conversation on 10 May 2022 where he ambushed the Wife with separation. He probably did not intend at the time to rely on unreasonable behaviour against her as a ground for divorce: separation was already in effect and as of August 2022 which was some 4 months later, he had not filed any divorce proceedings against her. However, after the Wife's private investigator caught him having an affair with Ms. D and the Wife filed for divorce on his adultery in August 2022, he retaliated by filing a counterclaim of the Wife's unreasonable behaviour in September 2022. This explained why his pleadings and evidence on his counterclaim were so scanty - because in the first place, he knew that the triviality of his unsubstantiated claims would amount to grasping at straws and not pass the court's reasonable scrutiny; hence, he had initially only effected separation.

62. In these circumstances, I dismissed the Husband's counterclaim. As costs follow the event, I ordered the Husband to pay the Wife costs of \$6,500.00. I note that the costs of the Wife's private investigator alone amounted to around \$16,000.00.

Conclusion

63. I would reiterate what I had held in *UJD v UJE* [2018] SGFC 12 at [52] that the *raison d'être* of the divorce laws in Singapore is to safeguard the sanctity of the institution of the marriage as a cornerstone of our society. If a spouse (unilaterally) decided that a marriage was over and proceeded to effect separation between parties (either under the same household or under two roofs), that did not confer upon the spouse the *carte blanche* or licence to rejoin the dating scene and indulge in improper associations or sexual relationships with third parties. Such behaviour may still be relied upon by the other spouse as unreasonable behaviour based on improper association or adultery for grounds for divorce, because parties remained married. The rationale for requiring a three (3) or four (4) years' separation as grounds for divorce is so that the spouse could use the cooling off time to decide whether he or she wanted to reconcile or divorce the other spouse at the end of the period. It did not mean that the spouse could behave as if he/she were single and available without the marital obligations of fidelity and monogamy, and entangle unwitting single members of society in their marital complications (like for Ms. D who became named as a co-defendant in the Wife's claim for adultery).

64. I would also reiterate in this case as I did in *UJD v UJE* [2018] SGFC 12 that the Husband owed it to his wife of twenty-one (21) years and the mother of his three (3) children (including his step-children) to wait out the period of separation, instead of blaming her for the breakdown of marriage. To his credit, the Husband did initiate separation in May 2022. Unfortunately, while waiting out the period of separation, he is found to have more likely

than not to have committed adultery and this marriage is regrettably henceforth dissolved on this ground.

Cheryl Koh
District Judge

Ms Tan Siew Khim & Mr Koh Zhen Yang
(Sterling Law Corporation) - for the Plaintiff;

Mr Cha Yong Sing Ignatious / Ms Yeo Qi Yan
Pearlyn (Yeo & Associates) - for the Defendant.