IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2024] SGHCF 40

District Court Appeal No 1 of 2024

Between

WTL

… *Appellant*

And

WTM

… *Respondent*

District Court Appeal No 2 of 2024

Between

WTM

… *Appellant*

And

WTL

… *Respondent*

JUDGMENT

[Family Law — Custody — Care and control]
[Family Law — Matrimonial assets — Division]
[Family Law — Maintenance — Child]

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WTL
v
WTM and another appeal

[2024] SGHCF 40

General Division of the High Court (Family Division) — District Court Appeals Nos 1 and 2 of 2024
Teh Hwee Hwee J
24 April, 7 August 2024

30 October 2024 Judgment reserved.

Teh Hwee Hwee J:

Introduction

1 The parties were married on 22 February 2003.[1] The Husband is 49 years old and works as a client advisor in a bank.[2] The Wife is 52 years old. She left her full-time employment in the banking industry in January 2015 to allow her more time for the family.[3] She started working again in September 2021 as a part-time baker but now runs a home baking business which she started in

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1 Joint Summary dated 9 May 2024 at p 1.

2 Joint Record of Appeal ("JROA") Vol 3A at p 13: Husband's Affidavit of Assets and Means dated 6 May 2022 ("HAM1") at para 3.

3 JROA Vol 3E at pp 30, 40–41: Wife's Affidavit of Assets and Means dated 6 May 2022 ("WAM1") at paras 24(i), 24(gg)–24(hh).

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October 2022.[4] They have two sons, aged 20 and 12 ("C1" and "C2", respectively, and collectively, the "Children"). An uncontested interim judgment ("IJ") was granted on 22 March 2022, dissolving the marriage of 19 years.[5]

2 The ancillary matters were heard by the learned District Judge ("DJ") on 5 December 2023 and judgment was delivered on 18 December 2023. Before me are the Husband's appeal in HCF/DCA 1/2024 ("DCA 1") and the Wife's appeal in HCF/DCA 2/2024 ("DCA 2") against the DJ's decision. Both parties appeal against the DJ's orders on the division of matrimonial assets and maintenance for the Children. In addition, the Husband appeals against the DJ's orders on care and control in DCA 1[6] and the Wife appeals against the DJ's orders on spousal maintenance in DCA 2.[7]

Issues in the appeals

3 The issues in the appeals are as follows:

(a) whether the DJ had erred in granting care and control of the Children to the Wife;

(b) whether the DJ had erred in assessing the Husband's direct contributions by declining to attribute renovation expenses and allowances previously given to the Wife as the Husband's direct contributions;

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4 JROA Vol 3E at p 10: WAM1 at paras 2–3; JROA Vol 3H at p 16: Wife's 2nd Ancillary Matters Affidavit dated 22 March 2023 ("WAM2") at paras 27–28.

5 Joint Summary dated 9 May 2024 at p 1.

6 Notice of Appeal for DCA 1 filed on 2 January 2024.

7 Notice of Appeal for DCA 2 filed on 2 January 2024.

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(c) whether the DJ had erred in assessing the parties' indirect contributions in the ratio of 55 : 45 in favour of the Wife;

(d) whether the DJ had erred in giving effect to the adverse inference drawn against the Husband;

(e) whether the Husband should have been given the first option to buy over the matrimonial property;

(f) whether the Wife should bear 66.2% of the expenses relating to the matrimonial property, pending the sale thereof;

(g) whether the DJ had erred in ordering the Husband to pay maintenance of $4,480 per month for the Children with effect from 1 January 2024; and

(h) whether the DJ had erred in declining to order the Husband to pay maintenance to the Wife.

4 I turn first to deal briefly with the Husband's application to adduce new evidence for the hearing of DCA 1 and DCA 2 before I address the issues in the appeals.

Application to adduce fresh evidence

5 The Husband filed an application on 28 March 2024 in HCF/SUM 100/2024 ("SUM 100") for leave to adduce new evidence pertaining to:

(a) the Husband's health and hospitalisation stays;

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(b) changes in C2's expenses since the ancillary orders were made by the DJ;

(c) the Wife's employment status, working hours and the status of her home baking business after the ancillary orders were made by the DJ; and

(d) the care arrangements of the Children, constituting records demonstrating the Husband's care for and involvement in the lives of the Children.

6 The application in SUM 100 was heard on 24 April 2024. Having considered the test in *Ladd v Marshall* [1954] 1 WLR 1489 and the two-step inquiry formulated by the Court of Appeal in *Anan Group (Singapore) Pte Ltd v VTB Bank (Public Joint Stock Co)* [2019] 2 SLR 341 ("*Anan Group*") for adducing fresh evidence relating to matters that occurred *before* the date of the decision from which the appeal is brought, as well as the test in *TSF v TSE* [2018] 2 SLR 833 ("*TSF v TSE*") at [43]–[44] as elaborated on in *BNX v BOE and another appeal* [2018] 2 SLR 215 ("*BNX v BOE*") at [99]–[100] for adducing fresh evidence relating to matters that occurred *after* the date of the decision from which the appeal is brought, I granted leave to the Husband to adduce the fresh evidence in [5(a)] to [5(c)] above. I also granted the Wife liberty to respond to the fresh evidence that was allowed, which she did by filing the Defendant's Reply Affidavit dated 24 May 2024 (the "Wife's SUM 100 Affidavit").[8]

7 The documents relating to the Husband's health and hospitalisation spanned the period from 11 October 2023 to 22 March 2024, and related to his

[8] Correspondence from Courts for HCF/SUM 100/2024 dated 6 May 2024.

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cancer diagnosis, surgery, hospital bills, and alleged reduction in work productivity post-surgery. I was satisfied that the documents pertaining to the Husband's health and the effect on his productivity that could not have been produced to the DJ (the "more recent health documents") would have a "perceptible impact" on the outcome of the appeal (*TSF v TSE* at [43]), given that the evidence had a bearing on the maintenance for the Children and the Wife payable by the Husband. Such documents also "at least [appeared] to be credible" (*TSF v TSE* at [44], citing *BNX v BOE* at [99]–[100]) as they comprised certified medical reports and verifiable hospital bills.

8 As for the documents that could have been placed before the DJ, such as a medical report dated 11 October 2023 explaining that a potentially cancerous cyst was discovered on the Husband's pancreas and recommending a surgery, their relevance lay in providing the context for evaluating the more recent health documents. Given that the Husband was undergoing treatment around the time of the hearing before the DJ, and his medical condition was being managed, I accept that there was no reason for the Husband to refer to those documents at the hearing before the DJ. His condition was in a state of flux and those documents would likely have been of limited use. As such documents provided the background for the evaluation of the more recent health documents to show the Husband's possible future medical expenses and alleged decreased work productivity and earning capacity, I found it to be in the interest of justice for the documents to be admitted to allow for a proper assessment of whether the Husband's ability to pay maintenance has been affected by his health .

9 I also allowed the fresh evidence relating to C2's changing expenses, and the Wife's employment status and working hours after the ancillary orders were made, to be adduced. Such evidence related to matters that occurred after the date of the DJ's decision and would have a "perceptible impact" on the

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outcome of the appeal, the former having a bearing on the maintenance payable by the Husband and the latter on the question of which parent would be in a better position to care for the Children and hence should be given care and control. The evidence appeared to be credible, although the weight that is to be accorded to the evidence would be subject to assessment.

10 I did not, however, allow the evidence that the Husband sought to rely on to demonstrate his care for and involvement in the Children's lives to be adduced. The Husband's Case for his appeal in DCA 1 at paras 166 to 210 already cited instances of the Husband caring for the children, such as the Husband monitoring C2's academic progress, coaching C2 on his homework and bringing C2 for swimming lessons and other activities. Notably, these are in the same nature as the fresh evidence that the Husband sought to adduce, which related to the Husband bringing C2 for the open houses of schools and helping to purchase C2's school supplies, amongst others. This category of fresh evidence that the Husband sought to adduce was not allowed, as it would not contribute further value in establishing the level of his parental involvement, and would therefore not have a "perceptible impact" on the outcome of the appeal.

11 The fresh evidence for which the Husband was granted leave to adduce, and the matters contained in the Wife's SUM 100 Affidavit, will be considered in turn at the relevant sections of this judgment.

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Whether the DJ had erred in granting care and control of the Children to the Wife

Decision below

12 Both parties sought care and control of the Children. The DJ found that the Wife was the primary caregiver of the Children as she would have been more present at home for them, particularly after she left her full-time employment to work part-time, before she eventually became a stay-at-home parent.[9] The DJ also found that prospectively, the Wife would have more time to spend with the Children as she would be running her home baking business from home.[10] In coming to his decision, the DJ took into account the Wife's greater caregiving role in the seven years from 2015 to 2021, which covered C2's formative years in primary school.[11]

Parties' cases on appeal

13 On appeal, the Husband submits that that he should have been awarded care and control of the Children. He submits that the DJ had erred in placing too much weight on the Wife's assertions that she could work from home as a home baker and on her previous role as a housewife. He further submits that the DJ had failed to accord sufficient weight to the Husband's role in raising the Children and to consider which parent has the better care plan for the Children.[12] The Husband points to CCTV footage covering a period of over six months, between 27 September 2021 to 2 April 2022, recording the Wife's absence from

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9 Decision (With grounds) delivered by the DJ on 18 December 2023 ("GD") at [79].

10 GD at [80].

11 GD at [81].

12 Appellant's Case in HCF/DCA 1/2024 dated 29 February 2024 ("AC DCA 1") at para 124.

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home for an average of 12 to 14 hours a day,[13] and another period of three months between 1 August 2022 to 1 November 2022, recording the Wife's absence from home for eight to 14 hours daily.[14] Further, the Husband challenges the DJ's finding that the Wife would have more time to spend with the Children prospectively. He argues that the Wife had found a full-time job and was no longer focusing on her home baking business,[15] relying on the fresh evidence that he adduced on the Wife's employment and working hours after the ancillary orders were made by the DJ (see [5(c)] above), which consists of time logs showing the time that the Husband, the Wife and C2 came into and out of the matrimonial home on various dates from January 2024 to March 2024,[16] and CCTV footage in support of those time logs.[17]

14 The Wife submits that she had been the primary caregiver to the Children at least for the seven years when she was not in full-time employment, and is more attuned to C2's emotional and physical needs and preferences.[18] She submits that she is better able to provide C2 with a supportive, stable and loving environment, and to continue to prepare home-cooked meals for him on a daily basis, help him in his studies and control his use of electronic devices.[19] She argues that the Husband would not be able to be more physically present for the

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13 AC DCA 1 at para 129(a), referring to JROA Vol 3A at p 73: HAM1 at para 149 and JROA Vol 3D at pp 505–529: HAM1 at pp 2612–2636.

14 AC DCA 1 at para 129(b), referring to JROA Vol 3G at pp 617–647: Husband's 2nd Ancillary Matters Affidavit dated 21 March 2023 ("HAM2") at pp 278–308; JROA Vol 3G at pp 592–616: HAM2 at pp 253–277.

15 Plaintiff's Further Affidavit filed in HCF/SUM 100/2024 dated 10 May 2024 ("Husband's SUM 100 Affidavit") at paras 39 and 42.

16 Husband's SUM 100 Affidavit at pp 41–45.

17 Husband's SUM 100 Affidavit at pp 47–68.

18 Respondent's Case in HCF/DCA 1/2024 dated 1 April 2024 ("RC DCA 1") at para 48.

19 RC DCA 1 at para 48.

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Children than her, given that he is expected to travel more frequently as a frontline salesperson in a regional role. He is also frequently occupied with customer appointments, entertainment and company events.[20] She also contends that the Husband is more invested in golfing and his other personal interests, as is evident from the Husband's care plan, which gives the Wife access to the Children for the entire weekend to enable him to prioritise his hobbies and own activities.[21] She highlights that the Husband's care plan is focused on chauffeuring the Children around on weekdays,[22] and outsourcing his caregiving responsibilities to a domestic helper.[23] She contrasts that with the seamless transition in caregiving that she will be able to provide in a separate household, as she had been managing the Children's meals and household chores without a domestic helper.[24]

15 In response to the fresh evidence concerning the Wife's absence from home after the ancillary orders were made, the Wife avers that she had taken on a short-term assignment as a pastry chef at a hotel from 15 January to 29 February 2024 due to a seasonal hike in their production volume,[25] but that she continued to be present for C2 on weekends and would either cook or buy dinner for C2 after work on weekdays.[26] According to her, she had stopped working at the hotel since 1 March 2024 to focus on her home baking business,

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20 RC DCA 1 at para 51.

21 RC DCA 1 at para 52.

22 RC DCA 1 at para 52.

23 RC DCA 1 at paras 52 and 54.

24 RC DCA 1 at paras 54 and 55.

25 Defendant's Reply Affidavit filed in HC/SUM 100/2024 dated 24 May 2024 ("Wife's SUM 100 Affidavit") at para 28.

26 Wife's SUM 100 Affidavit at para 29.

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which she manages alongside her household responsibilities and sending C2 to his rugby training and games every week.[27]

16 The Wife asserts that the time logs and CCTV footage adduced by the Husband can hardly serve as reliable evidence to establish which party had more time to spend with the children.[28] She asserts that the Husband had full control of the CCTV and that he has selectively exhibited evidence supporting his case. For example, he has provided time logs of weekdays and omitted weekends, when he would be absent from the home and the Wife would send C2 to rugby practice.[29] She contends that the Husband also omitted screenshots of himself returning home late on weekdays.[30] For example, the time logs suggest that the Wife had not attended C1's National Service Passing Out Parade on 15 February 2024[31] when she has photographic evidence that she did.[32] The Wife further contends that the Husband had omitted screenshots of the period when he went away on a cruise vacation to Vietnam.[33]

Analysis and decision

17 In determining care and control, my primary consideration is the welfare of C2, who is 12 years old, and remains dependent on the care of his parents. C1 is 20 years old and would attain the age of majority next year, rendering his care arrangements secondary.

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27 Wife's SUM 100 Affidavit at para 30.

28 Wife's SUM 100 Affidavit at para 40.

29 Wife's SUM 100 Affidavit at paras 33 and 34.

30 Wife's SUM 100 Affidavit at para 35.

31 Wife's SUM 100 Affidavit at para 36, referring to the Husband's SUM 100 Affidavit at p 42.

32 Wife's SUM 100 Affidavit at p 33.

33 Wife's SUM 100 Affidavit at para 37.

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18 A care and control order concerns the right to take care of a child and to make day-to-day, short-term decisions concerning the child's upbringing and welfare (*CX v CY (minor: custody and access)* [2005] 3 SLR(R) 690 ("*CX v CY*") at [32]). The starting point is the welfare of the child. Section 125(2) of the Women's Charter 1961 (2020 Rev Ed) ("Women's Charter") provides that in deciding in whose custody, or in whose care and control, a child should be placed, the paramount consideration is the welfare of the child. In recognising this, the Court of Appeal held that the welfare of the child ought to override any other consideration (*BNS v BNT* [2015] 3 SLR 973 at [19]).

19 In *ABW v ABV* [2014] 2 SLR 769 at [22], Judith Prakash J (as she then was) held that "[t]he concept of 'welfare' is not a narrow one: it has to be considered in the widest sense and is not to be measured by money or physical comfort only". The court considered (at [20]) the continuity of arrangements or stability to be important for the emotional well-being of a child. A number of other relevant circumstances in deciding what is in the best interests of a child include: (a) the need for both parents to have involvement in the child's life; (b) which parent shows greater concern for the child; (c) the maternal bond; (d) the child's wishes; and (e) the desirability of keeping siblings together. Ultimately, the decision as to what is in the best interests of each child, and the degree of weight to be given to any one factor, depends on the facts of each case and the needs of the particular child (at [23]–[24]).

20 In determining whether C2's welfare is better served by having the Husband or the Wife as the care and control parent, I consider his physical, emotional, developmental and educational needs. I agree with the DJ's assessment that care and control of C2 should be granted to the Wife. On balance, the Wife is able, to a greater degree, to nurture C2 and provide a caring environment to foster his growth at this critical stage of his development.

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21 Both the Husband and the Wife have contributed in their own ways to parenting the Children. The Husband has played a more significant role in providing structure, resources and opportunities. He is the main parent who managed logistics. His task- or results-oriented parenting approach is most evident from his meticulous planning and organisation of the Children's schedules, arranging for tuition and enrichment classes to further their academic development, and enrolling them in activities to bolster their extracurricular achievements.[34] In addition, he liaised with teachers and coaches, and ferried the Children to and from school and their scheduled activities.[35] Further, the Husband was engaged in monitoring C2's academic progress and coaching C2 on his schoolwork. Based on the parties' accounts, the Husband was involved in putting in place a rewards system to incentivise C2 to do well in school, administering spelling tests and meting out punishment for errors.[36] The Husband is, however, not all work and no play. He also organised events, such as the Children's birthday celebrations, as well as outings and vacations for them.[37]

22 The Wife, on the other hand, takes a more prominent role in attending to the children's daily needs and wellbeing, and providing them with a comfortable home. She left her full-time job in January 2015 when the Children were 11 and 3 years old, and resumed work only in September 2021,[38] when the

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34 JROA Vol 3A at pp 50–51: HAM1 at para 75; JROA Vol 3A at pp 64–65: HAM1 at paras 120–122.

35 JROA Vol 3A at pp 49–50: HAM1 at para 72; JROA Vol 3A at p 61: HAM1 at para 111.

36 AC DCA 1 at para 201; JROA Vol 3A at p 61: HAM1 at para 113; JROA Vol 3E at pp 51–52: WAM1 at para 42(a); JROA Vol 3E at p 586: WAM1 at p 583; JROA Vol 3H at pp 73–74 and 98: WAM2 at paras 168 and 246 .

37 JROA Vol 3A at pp 51–52, 63: HAM1 at paras 78–79, 117.

38 JROA Vol 3E at p 30: WAM1 at para 24(i).

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Children were 17 and 9 years old. She applied herself to attending to the Children's needs, preparing meals, managing the household, and nurturing the Children with her guidance and emotional support.[39] She also liaised with the Children's teachers and coaches, and sent the Children to their various activities.[40] The Husband claims that when the Wife ceased work, she did so because in 2014, C1's school had advised that one parent should stay at home to supervise C1 after his academic results took a dive.[41] The Wife, however, insists that the school had not advised any parent to stay home to supervise their child[42] and that she had become a homemaker at the request of the Husband.[43] Regardless of the circumstances of the Wife's decision to stop work, it is notable that her efforts helped C1 overcome his gaming addiction and improve academically.[44]

23 The Wife avers that C2 also struggles with gaming addiction, like C1 did previously.[45] She has also adduced evidence which suggests that C2 struggles academically in some subjects[46] and that the heavy schedule of activities organised by the Husband, as well as the incentives and punishments

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39 JROA Vol 3H at p 49: WAM2 at para 95. The Wife's evidence was that she hugged, affirmed and encouraged the Children: for example, see JROA Vol 3E at pp 54–55: WAM1 at para 48.

40 The Wife's evidence was that she would take C1 for classes and then to his favourite noodle place, and take C2 for preschool and rugby practice. For example, see JROA Vol 3L at pp 145–146: Wife's 3rd Ancillary Matters Affidavit dated 11 September 2023 ("WAM4") at paras 19–20 (fetching the Children and having meals); JROA Vol 3L at pp 257–261 (images of fetching the Children and having meals); Wife's SUM 100 Affidavit at para 30 (sending C2 for rugby).

41 JROA Vol 3G at pp 378–379: HAM2 at para 66.

42 JROA Vol 3L at p 146: WAM4 at para 21.

43 JROA Vol 3E at p 38: WAM1 at para 24(cc)(iii).

44 JROA Vol 3E at p 38: WAM1 at para 24(cc)(iii).

45 JROA Vol 3H at pp 73, 74, 96: WAM2 at paras 168 and 243.

46 Wife's SUM 100 Affidavit at pp 17–21.

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designed to spur C2's performance,[47] have not translated to corresponding academic success. In my judgment, the Wife is more ideally positioned to provide ongoing guidance, nurturing and emotional support to help the child navigate challenges. C2 will require dedicated time, daily supervision and constructive reinforcement to develop emotional regulation and cultivate healthy habits. The Wife has a less demanding job, and unlike the Husband, is not required to entertain clients, attend company events and functions, or travel for work.[48] Her work will allow more time for her to be present to guide C2 as he transitions from primary to secondary school and establishes a balanced routine. It will also afford her more capacity to foster good academic outcomes and enforce sensible measures for electronic device usage for C2, leveraging her proven track record of successfully managing these aspects for C1. The Wife's continuity in caregiving, having managed the household and prepared meals before the divorce, is another factor in her favour, as it will ensure minimal disruption.

24 I acknowledge that granting the Wife care and control of C2 will necessitate changes to C2's living arrangements. Currently, the Husband or C2's paternal grandparents transport C2 to school, tuition and extracurricular activities.[49] The change will require C2 to use public transport. The Husband has also proposed to buy over the Wife's share of the matrimonial home if he can afford to do so, and the Children would not have to move from the matrimonial home in that event. Nonetheless, the need for continuity and a stable environment is only one of a number of factors relevant in the holistic

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47 JROA Vol 4A at pp 74 and 76: Husband's Written Submissions dated 26 October 2023 at para 153 and para 159(a).

48 JROA Vol 3H at p 99: WAM2 at para 250; JROA Vol 3A at p 53: HAM1 at para 83.

49 JROA Vol 4A at pp 67–71: Husband's Written Submissions dated 26 October 2023 at para 146.

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review of what would be in C2's best interest. There is nothing to suggest that taking public transport would negatively affect C2. In fact, according to the Wife, C2 has also expressed a willingness to try to use public transport, like some of his peers.[50] Given his age, I am of the view that C2 can safely and easily navigate the public transport system. I cannot see how the opportunity to develop his independence would in any way be detrimental to him. Further, even if he has to adjust to new accommodations in the short term, it is in his long-term interests that his care and control is given to the Wife, who is more able to provide for his daily needs, and to nurture and support him emotionally.

25 It is well-established that an appellate court will usually be slow to intervene in decisions involving the welfare of children, given that decisions in such cases often involve choices between less-than-perfect solutions (*TSF v TSE* at [49], citing *CX v CY* at [15] and *BG v BF* [2007] 3 SLR(R) 233 at [12]). An appellate court would not be inclined to reverse or vary a decision made by the judge below unless it can be demonstrated that the judge has committed an error of principle (*VDX v VDY and another appeal* [2021] SGHCF 2 at [24]; *TSF v TSE* at [49]), the judge has failed to appreciate certain material facts (*ANJ v ANK* [2015] 4 SLR 1043 ("*ANJ v ANK*") at [42]; *TNL v TNK and another appeal and another matter* [2017] 1 SLR 609 ("*TNL v TNK*") at [53]), or the judge had exercised his discretion wrongly (*TSF v TSE* at [49]). Where, however, the proceedings below lack the characteristics of a trial, such as a case where evidence is given by way of affidavits, the appellate court is in as good a position as the judge below to draw inferences and conclusions from the evidence (*TSF v TSE* at [50]).

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50 JROA Vol 3E at p 56: WAM1 at para 51(b).

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26 In my judgment, the Husband has failed to show that the DJ had erred in a manner that meets the threshold for appellate intervention. I will first address the Husband's argument that the DJ placed undue weight on the Wife's claim that she could work from home. The Husband contends that the Wife had previously worked in professional kitchens for long hours, without fixed days off, and relies on CCTV logs to demonstrate her absence from home between 27 September 2021 and 2 April 2022, and between 1 August 2022 and 1 November 2022 (see [13] above).[51] However, the Wife's evidence is that she has stopped working in commercial kitchens since 1 March 2024 and that she has not shifted her focus away from her home baking business.[52] It is also the Wife's evidence that when she did work at the hotel, she would typically finish work by 6 pm or earlier,[53] and that she was able to provide dinner for C2 and spend her evenings with him after work.[54] I fail to see how the DJ had erred in considering the Wife's intention to focus on her home-run business and work from home, or how he had given that factor "undue weight". The Wife's past employment in commercial kitchens does not contradict her intention to work from home nor preclude her ability to do so. There is also no evidence to show that the Wife will neglect C2 due to her working hours after the family lives in separate households.

27 The Husband also relies on the time logs for various dates from January 2024 to March 2024 (see [13] above). I observe, however, that these logs appear to be selectively presented, seemingly to cast the Husband as a constantly available parent while portraying the Wife as a constantly absent parent. For

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51 AC DCA 1 at paras 127–129.

52 Wife's SUM 100 Affidavit at paras 30 and 45.

53 Wife's SUM 100 Affidavit at pp 34–41.

54 Wife's SUM 100 Affidavit at paras 29–31.

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instance, there are notable omissions of logs for weekends,[55] when the Husband was likely engaged in other activities such as golf.[56] The only evidence provided of a weekend during this period were screenshots of CCTV footage for one Saturday on 17 February 2024. As such, I consider these logs and the accompanying video footage with caution and assign them limited weight.

28 Putting aside the limited evidential value of the video evidence, the fresh evidence adduced by the Husband on the Wife's employment status and working hours after the ancillary orders were made by the DJ should also be considered in its proper context. Immediately following the ancillary orders made in December 2023, the family continued to reside in the matrimonial home and maintained its regular routine. C2's schedule continued to be full, with numerous classes and activities, including one to two tuition or enrichment classes every weekday in addition to regular school.[57] I accept the Wife's explanation that she took on a short-term assignment as a pastry chef with the hotel during that period of time, which ceased on 1 March 2024. I am not persuaded that the Wife would maintain long working hours and not be available to care for C2 when the family moves into separate households. The Wife has shown her commitment as a mother, having quit her job to care for the Children. I note, in particular, that she had successfully supported C1 in overcoming his gaming addiction and getting him back on track with regards to his performance in school.

29 I am also unable to agree with the Husband that the DJ had erred in his assessment of the Wife's contributions as a housewife. It is not unreasonable

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55 Husband's SUM 100 Affidavit at pp 41–46.

56 JROA Vol 3G at p 387: HAM2 at paras 94–95.

57 JROA Vol 4A at p 73: Husband's Written Submissions dated 26 October 2023 at p 70.

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for the DJ to conclude that the Wife's caregiving and homemaking contributions, after quitting her job, surpassed the Husband's, especially given his frequent travels. Between 2014 and 2019, the Husband was away about six to eight times annually, for one to four days each time.[58] His social calendar was active, with hotel restaurant dinners[59] and meals out, as well as golfing on weekends, which involves 18-hole games on Sundays[60] and occasional 9-hole games on Saturdays.[61] The Husband also did not refute the Wife's averment that he was frequently occupied with customer appointments, entertainment and company events, and that he frequently spent his evenings away from home.[62] Consequently, the Wife would likely have shouldered the daily tasks involved in raising and caring for the Children when the Husband was not available,[63] even if she was, as the Husband alleges, an active day trader and spending substantial time watching Netflix and television shows, using social media, exercising, and attending courses.

30 In conclusion, I am of the view that it will be in C2's best interests for C2's care and control to be given to the Wife. As it is desirable to keep the siblings together and maintain sibling unity, the care and control of C1 should also be given to the Wife. I find no reason to interfere with the DJ's decision and dismiss the Husband's appeal against the DJ's decision to grant care and control of the Children to the Wife.

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58 JROA Vol 3A at p 53: HAM1 at para 83.

59 JROA Vol 3L at p 30: Husband's 3rd Ancillary Matters Affidavit dated 29 August 2023 ("HAM3") at para 59.

60 JROA Vol 3G at p 387: HAM2 at para 95.

61 JROA Vol 3G at p 387: HAM2 at para 94.

62 JROA Vol 3H at p 99: WAM2 at para 250.

63 JROA Vol 3L at p 147: Wife's 3rd Ancillary Matters Affidavit dated 11 September 2023 ("WAM3") at para 26.

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Whether the DJ had erred in assessing the Husband's direct contributions

Renovation expenses

Decision below

31 The purchase of the current matrimonial property was completed on 22 March 2018.[64] For six months from January to June 2018, the matrimonial property underwent a series of renovations,[65] ranging from the hacking of walls and tiles, the replacement of kitchen and bathroom plumbing, to the installation of new cabinetry for the entire unit.[66] A total of $88,000 was incurred by the Husband for these renovations, which was paid in tranches from 26 February 2018 to 14 August 2018.[67] In determining the parties' respective direct contributions to the matrimonial property, the DJ declined to add the cost of the renovations done to the home as he was not satisfied that the renovations amounted to a substantial improvement to the property.[68]

Parties' cases on appeal

32 The Husband appeals, arguing that the $88,000 renovation costs should be recognised as part of his direct contributions towards the matrimonial property. He points out that the matrimonial property is in a condominium development that was completed in 2001, 17 years before the unit was purchased in 2018, with no improvements made to its condition. The extensive

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64 AC DCA 1 at para 19.

65 AC DCA 1 at para 20; JROA Vol 3A at p 54: HAM1 at para 88; JROA Vol 3E at p 30: WAM1 at para 24(k).

66 JROA Vol 3B at pp 114–122: HAM1 at pp 819–827.

67 AC DCA 1 at para 22; JROA Vol 3B at pp 123–126: HAM1 at pp 828–831.

68 GD at [11].

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renovations[69] should therefore count towards the acquisition, improvement and/or maintenance of the matrimonial property.[70] The Wife counters that there is insufficient evidence to prove that the renovation works were required to make the property habitable.[71] She highlights that there was no valuation report to show that the renovations increased the value of the property.[72] Furthermore, the Husband's valuation fails to demonstrate any value enhancement resulting from the renovations.[73]

Analysis and decision

33 Section 112(2)(*a*) of the Women's Charter provides that the court shall have regard to the extent of contributions made towards acquiring, improving or maintaining the matrimonial assets. Contributions to renovations can be attributed as a party's direct contributions if it can be shown that the renovations had improved the matrimonial property. This could be the case where the renovations are required to make the property habitable when it was first acquired (see *TZQ v TZR* [2019] SGHCF 3 at [69]). Renovations made around the time of the acquisition of the property to make the property suitable to live in may also be taken into account in ascertaining direct contributions to the property (*WFE v WFF* [2023] 1 SLR 1524 ("*WFE v WFF*") at [59]).

34 In the present case, it is evident from the renovation contracts that major renovations were undertaken to upgrade the matrimonial property. The property

69 AC DCA 1 at para 21.

70 AC DCA 1 at para 17.

71 RC DCA 1 at para 10(a).

72 RC DCA 1 at para 10(b).

73 RC DCA 1 at para 10(c).

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was acquired on 22 March 2018, and the works started around that time.[74] The Husband's case that the renovations were extensive and improved the matrimonial property is also supported by the Wife's own account. According to the Wife, she was actively involved in sourcing for vendors and interior designers, and the selection of building materials for the renovation.[75] She was also involved in overseeing the renovation works on site and handling minor fixes thereafter.[76] It is unclear from the DJ's decision why the DJ was not satisfied that the renovations amounted to a substantial improvement to the property.[77] Given the considerable effort and time involved even in the planning and supervision of the renovations, the types of renovation works done and the period of six months taken to complete the renovation works, I am satisfied that the renovations would have improved the matrimonial property. I therefore allow the Husband's appeal against the DJ's decision and add $88,000 spent by the Husband on the renovations as part of the Husband's contributions towards the matrimonial property. The ratio of the parties' contributions to their matrimonial property is adjusted in the table below, from 81.9 : 18.1,[78] to 83.3 : 16.7.

Husband's Contribution	**Amount (based on DJ's findings)**	**Adjustment to Husband's Contri-bution**	**Wife's Contribution**	**Amount (based on DJ's findings)**	**Adjustment to Wife's Contri-bution**

74 AC DCA 1 at paras 20 and 32.

75 JROA Vol 3H at p 42: WAM2 at para 85.

76 JROA Vol 3E at p 30: WAM1 at para 24(k).

77 GD at [11].

78 GD at [10].

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CPF Contributions (as principal)	$556,971.96		CPF Contributions (as principal)	$185,406.00	$0
Cash Deposit (1%)	$18,000				
Cash Deposit (4%)	$72,000				
Stamp Duty	$174,600				
Legal Fees	$2,400				
Completion Monies paid to vendor	$740.46				
Mortgage Payments in Cash	$15,116.99				
Renovation Costs	$0	$88,000			
Total Contribution	$839,829.41	$927,829.41	Total Contribution	$185,406.00	$185,406.00
Percentage contribution to the Property	81.9%	83.3%	Percentage contribution to the Property	18.1%	16.7%
Direct contribution to assets based on the DJ's valuation of the Property at $1,105,421.43	**$905,340.15**	**$920,816.05**	**Direct contribution to assets on the DJ's valuation of the Property at $1,105,421.43**	**$200,081.28**	**$184,605.38**

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35 The change in the ratio of the parties' contributions to the matrimonial property to 83.3 : 16.7 has an effect on the ratio for direct contributions, but only a slight one. As may be seen from the calculations below, the ratio for direct contributions is adjusted in favour of the Husband by 0.4%, from 72.5 : 27.5 to 72.9 : 27.1.

Assets	**Value**	**Husband's Direct Contribution (based on DJ's findings)**	**Wife's Direct Contribution (based on DJ's findings)**	**Husband's Adjusted Direct Contribution**	**Wife's Adjusted Direct Contribution**
Matrimonial Property	$1,105,421.43	$905,340.15	$200,081.28	$920,816.05	$184,605.38
All other assets	$2,355,723.56	$1,602,666.88	$753,056.68	$1,602,666.88	$753,056.68
Total Value of Direct Contributions	**$3,461,144.99**	**$2,508,007.03**	**$953,137.96**	**$2,523,482.93**	**$937,662.06**
Direct Contribution to Matrimonial Assets	**100%**	**72.5%**	**27.5%**	**72.9%**	**27.1%**

36 To summarise, I adjust the ratio for direct contributions to 72.9 : 27.1 in favour of the Husband, to take into account the Husband's payment for the renovation costs of $88,000.

Allowance given to the Wife over seven years

Decision below

37 In valuing the parties' direct contributions to the pool of matrimonial assets, the DJ had attributed the assets in the parties' sole names as their own

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direct contributions.[79] Consequently, the assets in the Wife's sole name, including her bank accounts, were attributed as her direct contributions.[80]

Parties' cases on appeal

38 The Husband disputes the DJ's attribution of the Wife's sole name assets as her direct contributions, arguing that the sum of $126,000 in the Wife's bank accounts, consisting of an allowance of $1,500 that the Husband gave to the Wife every month for seven years, should be attributed to the Husband as his direct contributions instead.[81] He submits that he covered all of the Wife's and the family's expenses during that period of time *via* a supplementary card and out of deposits he transferred into a POSB account held with the Wife. He avers that he paid an average of $1,200 a month for expenses charged to the supplementary card, and he deposited $3,000 to $5,000 each month into a joint POSB joint account, out of which the Wife would transfer $1,500 to her personal account.[82] The Husband argues that the $1,500 a month that the Wife transferred to her personal account was purely for her savings,[83] and the amount that he claims the Wife supposedly accumulated from the monthly transfers to her personal account as part of her savings ought now be attributed to him as his direct contributions.[84] The Husband also claims that an unquantified proportion of a sum of $37,000, which was part of the sale proceeds of the parties' previous HDB flat that was transferred to the Wife, should be attributed

79 GD at [59].

80 GD at [59].

81 AC DCA 1 at para 38.

82 AC DCA 1 at para 42.

83 AC DCA 1 at para 41.

84 AC DCA 1 at para 46.

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to the Husband as his direct contributions.[85] According to the Husband, the Wife was able to accumulate large savings even though she had not worked since January 2015 because she segregated the sum of $1,500 every month to her own bank accounts.[86]

39 In response, the Wife submits that the sum of $1,500 was an allowance given to her to cover her expenses after she ceased full-time employment to be a stay-at-home parent to look after the Children. The $1,500 monthly allowance was for her to use freely for her own expenses, and that she had expended the same.[87] She further submits that her expenses exceeded the sum of the $1,200 charged to the supplementary card and the monthly $1,500 allowance.[88] In response to the Husband's submission that the Wife was only able to accumulate large savings because she saved the Husband's allowance of $1,500 every month to her own bank accounts,[89] the Wife argues that even if the sum of $126,000 were deducted from her assets, she would still have amassed a sizeable sum of $627,056 on her own – there is no reason why she could not amass $753,056 if she could amass $627,056 on her own.[90]

Analysis and decision

40 In *WFE v WFF* at [36], the Appellate Division of the High Court explained that in the first step of the structured approach under *ANJ v ANK*, the court needs to ascertain how much each spouse had contributed financially

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85 AC DCA 1 at para 47.

86 AC DCA 1 at para 43.

87 RC DCA 1 at paras 13 and 15–16.

88 RC DCA 1 at para 17.

89 AC DCA 1 at para 43.

90 RC DCA 1 at para 18.

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towards the acquisition of the assets, and then credit the spouses for their respective contributions. Where a party asserts that he or she *contributed* to the acquisition of an asset solely *owned by the other* party, he or she may show proof of his or her contributions (*WFE v WFF* at [37]). This is a strictly evidential exercise that is done on a broad-brush basis (*WFE v WFF* at [37]).

41 Given the commingling of the Wife's personal monies with the monies withdrawn from the joint bank account, it is my view that there is insufficient evidence to show that the Husband directly contributed to an accumulation of $126,000 in the Wife's bank accounts. The fund transfers in and of themselves are insufficient to prove that any of the monthly allowance remains in the Wife's bank account, given that there is no evidence that the monthly allowance was not utilised by the Wife. It is entirely possible that the sum of $1,500 was spent each month.

42 The Husband's provision of the monthly allowance of $1,500 should, however, be considered in the assessment of his indirect financial contributions. In this regard, the DJ had considered, in awarding "the greater share" for indirect financial contributions to the Husband, that the Husband shouldered the burden of the family's expenses during the seven years when the Wife was a homemaker.[91] The monthly allowance should therefore not be attributed to the Husband as his direct contributions, as this would result in double-counting. For completeness, I note that the Husband has himself argued that the sum of $1,500 should be considered in assessing his indirect financial contributions.[92]

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91 GD at [62].

92 AC DCA 1 at para 61.

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43 Accordingly, the DJ did not err in declining to attribute $126,000 of the Wife's savings as the Husband's direct contributions. As for the Husband's unquantified claim for "some" direct contributions in respect of a sum of $37,000 allegedly withdrawn by the Wife from the sale proceeds of their previous matrimonial property,[93] I find that claim to be deficient in clarity and particulars, hence precluding meaningful consideration.

Whether the DJ had erred in assessing the parties' indirect contributions

Decision below

44 The DJ found the ratio of the parties' indirect contributions to be 55 : 45 in favour of the Wife.[94] Both parties appeal against this decision.

Parties' cases on appeal

45 In DCA 1, the Husband seeks an indirect contribution ratio of 60 : 40 in his favour.[95] He submits that he was more physically present than the Wife between 2020 to 2021 as he worked from home during the pandemic while the Wife studied full-time for a baking course.[96] He also submits that the Wife was an active day trader and social media user, and that she spent much time watching Netflix and television shows, exercising and attending many courses.[97] The Husband highlights his substantial indirect financial contributions,[98] his

93 AC DCA 1 at para 47.

94 GD at [60]–[66].

95 AC DCA 1 at para 50.

96 AC DCA 1 at para 52.

97 AC DCA 1 at paras 55–59.

98 AC DCA 1 at paras 60–66.

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efforts in caring for the children,[99] and his contributions to the acquisition, renovations, maintenance and upkeep of the matrimonial property.[100] The Husband asserts that the assistance provided by the paternal grandparents and a domestic helper lightened the burden of homemaking and caregiving. He argues that less weight should therefore be given to indirect non-financial contributions and more weight should be given to indirect financial contributions, for which the Husband's far outstripped the Wife's.[101]

46 The Wife submits that the Husband's submissions are an almost word-for-word rehashing of his submissions before the DJ, and that the Husband was not able to pinpoint any error made by the DJ.[102] The Wife further submits that even on the Husband's best case, she would still be the parent more physically present at home for six years and three months of the seven years that she was not in full-time employment.[103] In response to the Husband's submissions that she spent significant time on personal activities, she highlights that the court does not expect a stay-at-home spouse to forego all personal leisure, activities and interests[104] to be ascribed a higher proportion of indirect contributions, and that in any case, the Husband spent significant amounts of time away from home playing golf and going on business trips.[105]

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99 AC DCA 1 at paras 164–210.

100 AC DCA 1 at paras 74–90.

101 AC DCA 1 at paras 90–105.

102 RC DCA 1 at paras 24, 27 and 29.

103 RC DCA 1 at para 23.

104 RC DCA 1 at para 25.

105 RC DCA 1 at para 26.

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47 In DCA 2, the Wife seeks an indirect contributions ratio of 70 : 30 in her favour.[106] The Wife submits that the DJ had failed to consider that for a dual-income marriage where one spouse became a homemaker for an extended period of time but not the entire duration of the marriage, that spouse should be given a higher indirect contribution ratio than if that spouse had worked for the whole duration of the marriage. The Wife refers to *UTQ v UTR* [2019] SGHCF 13 ("*UTQ v UTR*") at [39]–[40], where the court observed that the wife in *UNE v UNF* [2018] SGHCF 12 ("*UNE v UNF"*) was attributed a higher indirect contributions ratio because she took unpaid leave and relocated to Canada with her husband for a year for his employment, and also assumed the role of a homemaker for the last 10 years of the marriage.[107] The Wife contends that the DJ had failed to give sufficient weight to her contributions in helping C1 overcome his academic challenges, depression and gaming addiction, as well as in training domestic helpers employed by the family, managing household chores without domestic assistance for an extended period of time, and renovating the matrimonial property.[108] In addition, she contends that the DJ had given excessive weight to the fact that she received assistance in ferrying the children,[109] and further, that the DJ had erred in finding that she spent considerable time trading shares.[110]

48 The Husband submits, in response, that *UTQ v UTR* and *UNE v UNF* do not stand for the proposition that a spouse who had taken on the role as a homemaker for part of the marriage should be given a higher indirect

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106 Appellant's Case in HCF/DCA 2/2024 dated 1 March 2024 ("AC DCA 2") at para 19.

107 AC DCA 2 at para 14(a).

108 AC DCA 2 at paras 14(b)–14(d) and 14(f).

109 AC DCA 2 at para 14(e).

110 AC DCA 2 at para 14(g).

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contribution ratio. The Husband seeks to distinguish *UNE v UNF* on the facts, arguing that the wife in that case had made significant financial contributions and *both* parties agreed that the wife's indirect contributions were substantially greater than the husband's.[111] The Husband also disputed each of the Wife's submissions.[112]

Analysis and findings

49 In ascertaining a ratio in respect of the indirect contributions of the parties, it is trite that the court is not engaging in a rigid, mechanistic and overly-arithmetical calculation exercise (*UYQ v UYP* [2020] 1 SLR 551 at [3]). Instead, applying the broad-brush approach, the court is to apportion the indirect contributions based on its impression and judgment from the relevant facts of each case (*ANJ v ANK* at [24]). On a practical level, the court should not be unduly focused on the minutiae of family life; instead, the court should direct its attention to broad factual indicators, such as the length of the marriage, the number of children, and which party was the children's primary caregiver (*USB v USA and another appeal* [2020] 2 SLR 588 at [43]).

50 It is also well-established that an appellate court will not interfere in the division orders made by the lower court unless it can be shown that the DJ had erred in law or had clearly exercised his discretion wrongly or had taken into account irrelevant considerations or had failed to take into account relevant considerations (*Chan Tin Sun v Fong Quay Sim* [2015] 2 SLR 195 at [19]). The court will not readily interfere with the trial judge's decision as to what percentage of the matrimonial assets is to be given to each party as it is a matter

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111 Respondent's Case in HCF/DCA 2/2024 dated 1 April 2024 ("RC DCA 2") at paras 9–13.

112 RC DCA 2 at paras 14–34.

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that is squarely within the trial judge's discretion. Furthermore, the application of the broad-brush approach means that there will be a range within which an appellate court must accept the trial judge's determination to be defensible (*TNL v TNK* at [53]).

51 In my judgment, the DJ had sufficiently considered pertinent factors in determining the ratio of the parties' indirect contributions, including the length of the marriage, the parties' employment history and financial contributions to the family, the number of children, the parties' caregiving roles, and the Wife's relinquishment of her career for domestic duties. The DJ had carefully weighed the evidence before him to arrive at a fair and balanced conclusion despite the parties' attempts at downplaying each other's contributions.

52 The DJ found that the Husband's indirect financial contributions outweighed those of the Wife.[113] As for indirect non-financial contributions, the DJ determined that the Wife's contributions were more substantial. He found both parties to be very involved parents and to have contributed to the renovation of the matrimonial property.[114] The DJ specifically considered the Wife's career sacrifice and considered her earning capacity had she stayed in the finance industry.[115] Based on the facts of this case, the DJ reasoned that the Wife was likely to have made more indirect non-financial contributions as the Husband was working full-time throughout the marriage whereas she took seven years off work to spend more time on the family.[116] The caregiving for the children and supervision of the renovations would therefore simply not have

113 GD at [62].

114 GD at [63].

115 GD at [63].

116 GD at [64].

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been something that the Husband could realistically claim a greater contribution to, given his regular travels in the period from 2014 to 2019[117] and his regular golfing.[118] Having reviewed the evidence, I find no reason to disturb the DJ's findings.

53 The Husband's submissions on appeal have not persuaded me that the DJ had erred in coming to his decision. In particular, the Husband's submission that he would have been more physically present than the Wife between 2020 to 2021 due to the circuit breaker, the Wife's full-time baking course from March to September 2021, and the Wife's work as a baker from September 2021 to April 2022[119] only shows that the Husband would have been more physically present than the Wife for a period of time that is not substantial relative to the time that the Wife spent as a housewife while the Husband worked full time.

54 I am similarly unpersuaded by the Wife's submissions that the DJ had erred in undervaluing her contributions to helping C1 overcome his gaming addiction or her efforts in the domestic sphere. The DJ had recognised the wife's caregiving efforts, specifically, her role as the primary caregiver for the children in the last seven years of the marriage, and her contributions to the household, particularly during the years when she was not under full-time employment. The Wife's reliance on *UTQ v UTR* at [39]–[40] does not take her case any further. It is trite that the assessment of the values to attribute to each spouse for their indirect contributions is a process where the court must "exercise sound discretion along with a keen emphasis on all the relevant facts *of each case*" [emphasis added] (*ANJ v ANK* at [24]), and that every case on the division of

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117 JROA Vol 3A at p 53: HAM1 at para 83.

118 JROA Vol 3G at p 387: HAM2 at paras 94 and 95.

119 AC DCA 1 at para 52.

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matrimonial assets necessarily turns on the facts of the case in question (*VWM v VWN* [2023] SGHCF 2 at [32]). I note that the facts in *UNE v UNF* are distinguishable. The wife in that case was the homemaker spouse for ten years and was also the spouse who managed the family expenses throughout the marriage. The parties in *UNE v UNF* had agreed that the wife's indirect financial contributions were substantially greater than the husband's, a factor to be considered in conjunction with the wife taking unpaid leave and relocating to Canada with her husband for a year for his employment, and assuming the role of a homemaker for the last 10 years of the marriage (*UNE v UNF* at [75], [78] and [79]; *UTQ v UTR* at [40]).

55 Therefore, neither the Husband nor the Wife has shown any basis for me to interfere with the DJ's determination of the ratio of the parties' indirect contributions. The DJ's apportionment of the parties' indirect contributions was correctly based on his impression and judgment of the relevant facts. In my view, the ratio for indirect contributions that the DJ had ascribed to the parties is within the defensible range of what is reasonable and fair, and neither party has demonstrated any error in law, principle or discretion of the DJ in this regard. In coming to this conclusion, I have taken into account the monthly allowance of $1,500 that the Husband gave to the Wife when she was a stay-at-home parent as part of his indirect financial contributions. I therefore dismiss the parties' appeals against the decision of the DJ with respect to their indirect contributions.

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Whether the DJ had erred in giving effect to the adverse inference drawn against the Husband

Decision below

56 The DJ drew an adverse inference against the Husband for his refusal to provide disclosure of statements for 19 different accounts with DBS Bank Ltd ("DBS"), Citibank and Standard Chartered Bank ("SCB"), and another seven securities accounts, for periods of time ranging from January 2019 to September 2021.[120] The DJ gave effect to this adverse inference by quantifying the value of the non-disclosed assets at $137,743.67,[121] which he added back to the pool of matrimonial assets as a notional sum without attributing the amount as part of the Husband's direct contributions.

Parties' cases on appeal

57 The Wife submits that the DJ erred when ordering that a notional sum of $137,743.67 be added back to the pool of matrimonial assets, as the DJ had adopted a methodology which gave an excessive benefit of the doubt to the Husband, and required the Wife to bear the burden of proof when it was the Husband who had refused to comply with the discovery orders.[122] The Wife submits that the appropriate sum to be added back to the pool of matrimonial assets should be $1,043,311.27.[123] In support of this, the Wife relies on a table setting out the Husband's bank balance as at 30 September 2018, and his income, estimated expenses and other cash outflows between 30 September 2018 and 31 March 2022, arriving at the sum of $1,310,684.11 which she

120 GD at [49]–[51].

121 GD at [55]–[58].

122 AC DCA 2 at para 26.

123 AC DCA 2 at para 27.

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contends the Husband should have as at 31 March 2022.[124] As the balance that the Husband disclosed as at 31 March 2022 was $267,372.84, there is a discrepancy of $1,043,311.27 ("the Discrepancy").

58 The Husband submits that he had refused to provide the bank statements because the Wife would have vexatiously asked for more discovery due to her "tendency towards micro-security" and not because he had anything to hide.[125] The Husband asserts that the Wife has a habit of asking about very small issues that have little to no bearing, citing examples of small sums of money that she had asked him to account for in discovery. He explains that it was out of a desire to protect his own health that he wished to expedite the ancillary matters "without getting mired in the Wife's pettiness".[126] He maintains that he had made full and frank disclosure at the outset, even declaring assets that were no longer legally owned by him. He dismisses the Discrepancy on the basis that "there are simply too many estimates and assumptions" used by the Wife in arriving at that figure,[127] and offers his own estimates to explain away the Discrepancy. Based on his estimates of his expenses and cash outflows, he watered down the Discrepancy to a mere $3,728.76.

Analysis and decision

59 The power of the court to draw an adverse inference against a party who fails to comply with any provision or order for disclosure finds its genesis in rule 75(6) of the Family Justice Rules 2014. This is similarly provided for in part 9, rule 16(1)(*h*) of the Family Justice (General) Rules 2024, which also

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124 AC DCA 2 at pp 33–36.

125 RC DCA 2 at para 41.

126 RC DCA 2 at para 43.

127 RC DCA 2 at paras 44–45.

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spells out other possible consequences of a failure to comply with an order for disclosure.

60 In *WRX v WRY and another matter* [2024] 1 SLR 851 ("*WRX v WRY*") at [38], referring to *UZN v UZM* [2021] 1 SLR 426 ("*UZN v UZM*") at [18] and *BPC v BPB and another appeal* [2019] 1 SLR 608 ("*BPC v BPB*") at [60], the Appellate Division of the High Court observed that an adverse inference should only be drawn where:

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

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

The Appellate Division of the High Court also referred to *BOR v BOS and another appeal* [2018] SGCA 78 at [75], noting that there must be some evidence suggesting that the person has sought to conceal or deplete assets which should be included in the matrimonial pool.

61 There are generally two approaches adopted to give effect to an adverse inference arising from non-disclosure (*WRX v WRY* at [39]):

(a) First, the court may make a finding on the estimated value of the undisclosed assets based on the available evidence and, subject to the party dissatisfied with the value attributed showing that that value is unreasonable, include that value in the matrimonial pool for division (the "Quantification Approach").

(b) Second, the court may order a higher proportion of the known assets to be awarded to the other party (the "Uplift Approach").

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62 The Appellate Division of the High Court found that while the Quantification Approach and Uplift Approach are commonly adopted, the court is not restricted to adopting either of them (*WRX v WRY* at [40], citing *BPC v BPB* at [39]). The judgments of the Court of Appeal have "made it clear that whether the court adopts the quantification approach or the uplift approach is a matter of judgment in each individual case" (*UZN v UZM* at [29]), and that the court would employ the method that best achieves this objective.

63 The Husband's explanation for his refusal to comply with the order for discovery and provide proper disclosure is wholly unacceptable. In my judgment, an adverse inference was rightly drawn against the Husband. The DJ, however, erred in his valuation of the non-disclosed assets. The parties' positions are summarised in a table presented by the Wife,[128] which is reproduced below together with the DJ's findings:

S/N	Item	Wife's estimate	Husband's estimate	The DJ's findings
Initial balance as at 30 September 2018				
1.	Estimated bank balance as at 30 September 2018	$629,024.60	$623,229.58	$623,229.58
2.	Additional notional bank balance as at 30 September 2018	$20,000.00	$0.00	$0.00
Income				

[128] Annex B of AC DCA 2 at pp 33–36.

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3.	Take home income from Oct 2018 to March 2022	$1,867,939.55	$1,867,939.55	$1,867,939.55
Outflows				
4.	Income tax paid	-$299,053.46	-$299,053.46	-$299,053.46
5.	Cash outlay for purchase of Lexus car on 28 Jul 2019	-$72,900.00	-$72,900.00	-$72,900.00
6.	DBS - 1 Year car loan ($50,000) & interest	-$51,340.00	-$51,340.00	-$51,340.00
7.	GE Universal Life Insurance ($1,064.25 per year, 2019 to 2021)	-$3,192.75	$0.00	$0.00
8.	Total expenses of the family:	-$594,275.97 Comprising of: (a) Credit card: $430,568.22 (b) Cash expenses: $121,187.75 (c) [C2's] allowance: $2,520.00	-$1,258,920.18 Comprising of: (a) Household: $462,957.18 (b) [C1's]: $53,812.50 (c) [C2's]: $92,242.50 (d) Plaintiff's: $448,140.00	-$1,225,687.97

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		(d) Red packet money: $40,000.00	(e) Defendant's: $201,768.00	
9.	Wife allowance (Oct 2018 to Aug 2021)	-$52,500.00	-$52,500.00	-$52,500.00
10.	Overseas trips	-$35,593.35	-$56,598.07	-$46,095.71
11.	Purchase of artworks	-$52,114.72	-$94,779.63	-$66,504.63
12.	Renovation payment to [Y Store] on 20 July 2020	-$0.00	-$5,550.00	-$5,550.00
13.	Payment of legal fees	-$28,357.79	-$28,357.79	-$28,357.79
14.	Partial payment of the Husband's OCBC Loan Account No. [X] of USD 50,000 (approx. SGD 70,000) on 11 Oct 2018	-$0.00	-$70,000.00	-$52,500.00
15.	Contribution towards parents' car in July 2019	-$0.00	-$20,000.00	-$20,000.00

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16.	Purchase of investments in SCB	-$0.00	-$171,936.40	-$128,952.30
17.	Purchase of investments in DBS	-$0.00	-$15,000.00	-$11,250.00
18.	Purchase of investments in CDP	-$0.00	-$6,000.00	-$4,500.00
19.	Loan to [K]	-$16,952.00	-$17,132.00	-$17,132.00
Reconciliation of figures based on data above				
20.	Cash balance that Husband should have as at 31 March 2022	**$1,310,684.11**	**$271,101.60**	**$408,745.27**
21.	Cash balance that Husband has as at 31 March 2022	$267,372.84	$267,372.84	$267,372.84
22.	Discrepancy / Concealed Assets	**$1,043,311.27**	**$3,728.76**	**$141,472.43***
	* The figure of $141,472.43 is different from the determined sum of the discrepancy of **$137,743.67** because the DJ had omitted the discrepancy of $3,728.76 based on the Husband's calculation. The tally is the same after that is taken into account ($137,743.67 + $3,728.76 = **$141,472.43**).			

64 I will only deal with the items of higher value for the purposes of my analysis in this section. The Husband claims that the cash in his bank account was diminished by payments for investments held in SCB, DBS and Central

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Depository Pte Ltd ("CDP") investment accounts in the respective amounts of $171,936.40, $15,000 and $6,000. Such payments, if made, would have been recorded. The Husband could have provided the relevant statements to prove his claim that there were cash outflows in those amounts during that relevant period of time. He did not do so. The Husband also did not show that he did not already have any of these investments as at 30 September 2018 or that he had purchased them between 1 October 2018 and 31 March 2022. Separately, there was a partial payment of an OCBC loan in the amount of $70,000, which the Husband claims was partly funded by a loan from his parents, but he could not state the amount funded by his parents. These investment and loan amounts add up to $262,936.40. The DJ had added back 25% of the sum of $262,936.40 allegedly used for those investments to the pool of matrimonial assets (see items 14 and 16 to 18 in the table at [63] above). Based on the evidence before the court, there is no basis to make a finding on the estimated value of the cash outflows for investments and loans adding up to 75% of $262,936.40, or to find the estimated value of the undisclosed assets to be 25% of $262,936.40.

65 Similarly, for the item for family expenses, the difference between the parties' estimates is significant at $664,644.21. The Wife's estimate is $594,275.97 whereas the Husband's estimate is $1,258,920.18. The DJ had added back $33,232.21, which is 5% of the difference of $664,644.21 in the parties' estimates, to the matrimonial pool (see item 8 in the table at [63] above). While I accept that the Wife's estimates do not include some payments made in cash or through direct bank transfers, because she did not have access to such information due to the Husband's refusal to provide his bank statements, I am unable, considering the available evidence, to find a basis to make a finding on the estimated value of cash outflows for family expenses amounting to 95% of $664,644.21, or to find the estimated amount of the unaccounted cashflow attributed to family expenses to be 5% of $664,644.21.

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66 The Husband was put on notice that the Wife claims a discrepancy of more than a million dollars, and yet he persisted in not providing the discovery that he was ordered to give. It is my judgment that adding a notional value of $137,743.67 to the pool of matrimonial assets is manifestly inadequate, given the sizeable difference in the estimates of the parties, and the Husband's inability to substantiate his explanation for the Discrepancy. It is the Husband's failure to disclose his bank statements which has led to the difficulty in determining the true extent of assets in the matrimonial pool. The information pertaining to his withdrawals of funds and financial position in the period in question, from January 2019 to September 2021, being proximate to the date the divorce was filed by him on 21 September 2021, is clearly relevant and necessary to shed light on the true value of the pool of matrimonial assets. His refusal to disclose has resulted in the court not having a complete picture of his assets. The circumstances indicate a real possibility of concealment or dissipation of assets around the time when the marriage had broken down, for an amount that far exceeds the $137,743.67 found by the DJ. In *UZN v UZM*, the Court of Appeal held that the court would have to "make a finding on the value of the undisclosed assets based on the available evidence and, subject to the party dissatisfied with the value attributed showing that that value is unreasonable, include that value in the matrimonial pool for division" [emphasis in original omitted] in order to apply the Quantification Approach to give effect to an adverse inference drawn against a non-disclosing party (at [28(a)]). Unlike the factual matrix in *UZN v UZM*, where there was material to decide the parties' dispute on how the depletion of the amount of income earned was to be accounted for, there is insufficient evidence in the present case to ascertain the cash outflows that could be attributed to actual family expenses or the real value of the matrimonial assets in cash. I therefore find it more appropriate to adopt the Uplift Approach to neutralise the effects of the Husband's failure to disclose,

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and to give a higher proportion of the known assets to the Wife. Based on the circumstances of this case, in particular, considering the Husband's income, investments and earning capacity, the number of accounts affected by the Husband's failure to give discovery, as well as the size of the pool of matrimonial assets, it would be just and equitable to give an uplift of 7.5% to the Wife's share of assets.

67 The final ratio for the division of the pool of matrimonial assets is adjusted below, from 58.75 : 41.25 to 51.45 : 48.55 in favour of the Husband, after accounting for the adjusted ratio for direct contributions at [36] above, excluding the notional sum of $137,743.67 added by the DJ from the pool of matrimonial assets and effecting the uplift of 7.5% to the Wife's share of the assets.[129]

	Husband (based on DJ's findings)	**Wife (based on DJ's findings)**	**Husband (Adjusted)**	**Wife (Adjusted)**
Direct Contributions	72.5%	27.5%	72.9%	27.1%
Indirect Contributions	45%	55%	45%	55%
Ratio	58.75%	41.25%	58.95%	41.05%
Final ratio after uplift of 7.5%	-	-	51.45%	48.55%
Share of $3,598,888.66	**$2,114,347.09**	**$1,484,541.57**	**-**	**-**

[129] The final ratio for the division of the matrimonial assets, after an uplift of 7.5%, will be applied to the sum of $3,461,144.99, which is the total quantum of the parties' assets, adopting the DJ's valuation of the matrimonial property at $1,105,421.43.

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(based on the DJ's valuation of the Property at $1,105,421.43 and inclusive of the notional sum of $137,743.67 added by the DJ to the assets pool)				
Share of $3,461,144.99 (excluding the notional sum of $137,743.67)			**$1,780,759.10**	**$1,680,385.89**

68 In summary, I replace the notional sum of $137,743.67 that the DJ added to the matrimonial pool to give effect to the adverse inference drawn against the Husband with an uplift of 7.5% to the Wife's share of the matrimonial assets, and adjust the final ratio for the division of the pool of matrimonial assets to 51.45 : 48.55 in favour of the Husband.

Whether the DJ had erred in relation to the orders concerning the matrimonial property

69 Before I turn to the matter of maintenance, I consider two other issues that are related to the matrimonial property. These relate to: (a) whether the Husband should be given the first option to purchase the Wife's share of the matrimonial property; and (b) whether the Wife should bear 66.2% of the expenses relating to the matrimonial property.

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First option to purchase the Wife's share of the matrimonial property

Decision below

70 Using the final ratio for the division of the pool of matrimonial assets determined by the DJ at 58.75 : 41.25, and proceeding on the basis that each party would retain the assets in their own names and the Husband would be entitled to the moneys in the parties' joint POSB account,[130] the DJ adjudged the shares of the Husband and the Wife in the matrimonial property, with a net value assessed by the DJ to be $1,105,421.43, to be 33.8% and 66.2%. This accounted for the fact that the Husband's share of the other assets exceeded his 58.75% share of the matrimonial pool. The DJ ordered the matrimonial property to be sold in the open market within 12 months from the date of his order, with the costs and expenses of the sale borne directly by the parties in a ratio of 66.2 : 33.8, with the Wife paying 66.2%.[131]

Parties' cases on appeal

71 The Husband has requested to be given the first option to purchase the Wife's share of the matrimonial property,[132] at the DJ's net valuation of the matrimonial property of $1,105,421.43.[133] The Wife objects to the Husband's request. She submits that the DJ's adopted valuation is below the market price, and a valuation of the matrimonial property should be conducted if the court is minded to allow the Husband the first option to purchase it.[134]

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130 GD at [74].

131 GD at [67].

132 AC DCA 1 at para 111.

133 GD at [9].

134 RC DCA 1 at paras 35, 37 and 44.

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72 The Husband further submits that in the event that he is unable to buy over the Wife's share in the matrimonial property, the sale proceeds should be carved out and divided separately from the other assets. This is necessary to align the results with the final ratio for the division of the pool of matrimonial assets. The ratio for division of the matrimonial property may otherwise be different from the final ratio if the net sale proceeds were divided in the ratio of 66.2 : 33.8 as ordered by the DJ, depending on whether the actual net sale proceeds amount exactly to the sum of $1,105,421.43 taken by the DJ to be the net value of the matrimonial property.[135]

Analysis and findings

73 Given that I have affirmed the DJ's decision in relation to the care and control of the Children, I find no reason to interfere with the DJ's order for the matrimonial property to be sold in the open market. The Wife is open to transferring her share to the Husband at an evaluated market price. [136] The parties can therefore work out an agreed price if the Husband still wishes to acquire the Wife's share in the matrimonial property.

74 I agree, however, with the Husband that the net sale proceeds of the matrimonial property should be divided in accordance with the final ratio for division of the pool of matrimonial assets so that the actual amount that each party receives aligns with that ratio. This is given effect to at [99(d) – (e)] below.

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135 AC DCA 1 at paras 114–117.

136 JROA Vol 4B at p 84: Wife's Written Submissions dated 26 October 2023 at para 87; RC DCA 1 at para 44.

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Expenses relating to the matrimonial property

Decision below

75 The DJ had ordered that pending the sale of the matrimonial property, the Wife would bear 66.2% of the housing loan, utilities, property tax, sinking fund and management fee payments, to reflect the Wife's greater share of the proceeds of sale.[137]

Parties' cases on appeal

76 In DCA 2, the Wife submits that the DJ erred in law in ordering the Wife to bear 66.2% of the utilities, property tax, condominium sinking fund and management fee payments for the matrimonial property, pending the sale thereof, instead of 50%.[138] She relies on the Court of Appeal's holding in *TIC v TID* [2019] 1 SLR 180 ("*TIC v TID*") at [24(c)] that between the date of the court order and the date of completion, in a situation where one party to a divorce has been given the option of buying over the other party's share of the matrimonial property, in relation to property tax or payments which *do not affect the net equity of the property*, the *prima facie* position is that the notional owner of the property as at the date of the court order should bear such payments, where the notional owner depends on the terms of the order.[139] The notional owners of the matrimonial property based on the decision of the DJ was both the Husband and the Wife, such that the fees and payments should be borne by

137 GD at [68].

138 AC DCA 2 at paras 28 and 30.

139 AC DCA 2 at para 29.

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the parties equally.[140] The Wife thus sought for the Husband to repay to the Wife the excess sum she had paid since the ancillary matters were decided.[141]

77 In response, the Husband submits that this appeal relates to a mere sum of $135 a month that the Wife is "quibbling over".[142] He distinguishes *TIC v TID* from the present case on the basis that the court there had ordered that the wife would buy over the husband's share of the property, whereas the DJ in the Divorce Proceedings had ordered that the property be sold on the open market, with the proceeds divided 66.2 : 33.8 in favour of the Wife.[143] Therefore, the *prima facie* position that the payments should be borne by the party who should be taken to be the owner of the property applied in such a way that the Wife, as the eventual owner of 66.2% of the sales proceeds, should cover 66.2% of the fees and payments.[144]

Analysis and decision

78 The Court of Appeal in *TIC v TID* drew a distinction between payments that "affect the net equity of the property" and those that "do not affect the net equity of the property and are instead tariffs levied on the ownership of the property, independent of its occupation or beneficial use". The former, such as mortgage payments, "should be paid by the party which would benefit from any changes in such net equity". For the latter, such as property tax payments, "the *prima facie* position is that such payments should be borne by the party who should be taken to be the owner of the property" (at [21]).

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140 AC DCA 2 at para 30.

141 AC DCA 2 at para 31.

142 RC DCA 2 at paras 65 and 66.

143 RC DCA 2 at para 69.

144 RC DCA 2 at paras 68–69.

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79 Neither party argues that the payments in dispute affect the net equity of the property; rather, the central issue in contention is who should be considered the notional owner of the property. In the present case, the DJ had ordered the matrimonial property to be sold in the open market, which is affirmed on appeal (see [73] above). Given that the net proceeds of sale will be divided in accordance with the revised final ratio for division of the pool of matrimonial assets (see [74] above), the Husband and Wife should be taken to own, respectively, 51.45% and 48.55% of the property (see [68] above). Accordingly, the payments for property tax, and condominium sinking fund and management fees, should be paid by the Husband and Wife based on that ratio during the interim period until the property is sold. The Husband is to refund the Wife for any excess payments for property tax, and condominium sinking fund and management fees made by the Wife. As for the payments for utilities, which are payments for things consumed by the occupiers of the property and do not depend on the ownership of the property, it will be fair for the party or parties who continue to reside in the matrimonial property and benefit from the use of utilities to bear such expenses. I therefore order the parties to each bear half of the utility charges, as sought by the Wife, up to the date that either party moves out of the matrimonial home. I also order the Husband to refund the Wife for any excess payments for utilities.

Whether the DJ had erred in ordering maintenance for the Children

Decision below

80 The DJ considered the income of the parties and found that the Husband's monthly income was $37,529.53[145] and the Wife's earning capacity

145 GD at [107].

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was $3,294.08 each month,[146] such that the ratio of their incomes was 91.9 : 8.1.[147] He assessed C2's reasonable expenses to be $3,811.33[148] and C1's reasonable expenses to be $1,061.83,[149] amounting to $4,873.16 for both children. The DJ ordered the Husband to pay his 91.9% share of the Children's maintenance, which worked out to $4,480 (rounded up), to the Wife with effect from 1 January 2024.[150]

81 The Husband appeals against the date from which he was ordered to pay maintenance and the inclusion of tuition and enrichment costs as part of a fixed sum of maintenance. Both parties appeal against the DJ's apportionment of maintenance, with the Husband arguing that the Wife should bear 25% of the expenses and the Wife submitting that the Husband should bear 100% of the expenses.

Commencement date for maintenance payments

Parties' cases on appeal

82 The Husband points out that the parties are still staying in the matrimonial home, and he is still paying for many of the household and Children's expenses directly. Consequently, to prevent double counting, the following orders made by the DJ should be adjusted to commence only *after* the Wife and the Children move out of the matrimonial home:

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146 GD at [111].

147 GD at [114].

148 GD at p 84.

149 GD at p 87.

150 GD at [119]–[120].

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(a) Order 22, which ordered the payment of child maintenance of a total of $4,480 a month to the Wife;[151]

(b) Order 23, which ordered the Husband to transfer the existing mobile plans, Stemcord subscription plans, and tuition or enrichment activities where the Husband was the registered payor to the Wife's name;[152] and

(c) Order 24, which ordered that the Husband contribute 91.9% of the Children's expenses for further enrichment or tuition courses that the parties agree to.[153]

83 The Wife submits that as the care and control parent, she should have the latitude to manage the funds for the Children's expenses, and the Husband could pay the Wife the ordered maintenance sum and claim from the Wife any expenses he incurred which should have been covered by the ordered sum.[154]

Analysis and decision

84 Maintenance is ordered to provide for the reasonable needs of the Children, having regard to all the relevant circumstances of the case (s 69(4) of the Women's Charter). The court has a discretion to order maintenance to commence from whichever date the court considers fair (s 127(1) of the Women's Charter; *AMW v AMZ* [2011] 3 SLR 955 at [13]), which is usually applied in the context of backdating maintenance payments. It is unclear from the Husband's case how the DJ had erred in ordering the maintenance payments

151 AC DCA 1 at para 216.

152 AC DCA 1 at para 218(a).

153 AC DCA 1 at para 218(b).

154 RC DCA 1 at paras 60–61.

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from 1 January 2024. The issues with "double counting" that he raises were mainly caused by him withholding payment and insisting on making direct payment of sums covered by the Children's maintenance, as well as his refusal to transfer the existing mobile plans and subscription plans to the Wife and changing the payor particulars. The DJ had specifically ordered the transfer of the various subscription plans and the change of payor particulars to "ensure there were no double payments".[155] There is therefore no basis for the Husband to complain about the issue of "double counting" caused by his own actions. I find no justification to interfere with the DJ's order and dismiss the Husband's appeal on this ground.

Tuition and enrichment expenses as fixed maintenance

Parties' cases on appeal

85 The Husband submits that the DJ had erred in including the sums of $1,440 and $850 for C2's tuition courses and enrichment as part of C2's total fixed maintenance at $3,811.33 a month.[156] He argues that the Wife should seek reimbursement for those expenses instead, subject to a cap of $2,104.51 per month for such expenses, given the possibility that C2's requirements may change in the future.[157] The Husband also relies on fresh evidence he adduced on changes in C2's expenses (see [5(b)] above) to show that C2's skateboarding and golf classes had ceased, and that C2 was likely to stop his tuition after his Primary School Leaving Examinations to argue that the total amount of maintenance that should be paid for C2 should be reduced, or paid on a

155 GD at [121].

156 GD at [118]; AC DCA 1 at paras 221–224.

157 AC DCA 1 at paras 223–224.

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reimbursement basis.[158] The Wife submits that requiring those expenses to be paid on a reimbursement basis will increase the likelihood of further disputes, and the burden of collating receipts will affect her ability to care for C2.[159] The Wife also submits that C2's expenses may not be reduced in the future due to C2's increased school load, increasing taxes and inflation.[160] In the Wife's SUM 100 Affidavit, the Wife deposed to C2 incurring a different set of expenses as he had commenced rugby training at a private rugby club, and was likely to continue to need tuition in secondary school.[161]

Analysis and findings

86 It is a given that C2's expenses will change, as he transitions from primary school to secondary school. As observed by the Appellate Division of the High Court in *WRX v WRY*, the expenses of children are bound to change over time. Parties are expected to cooperate to meet the changing needs of the children as they grow into young adults, adjusting the sums of maintenance the parties provide for their children over time, avoiding a calculative attitude and extending grace and flexibility to each other instead (at [70]). The court emphasised that an order for maintenance should not be based on the parties curating a list of specific expenses, as if each item on the list represented an expense specifically allowed to be incurred for the children. Instead, the assessment of reasonable monthly expenses upon which the maintenance order is made is based on broad budgeting (*WRX v WRY* at [62], citing *WBU v WBT* [2023] SGHCF 3 ("*WBU v WBT*") at [10]–[11]).

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158 Husband's SUM 100 Affidavit at paras 23–26.

159 RC DCA 1 at para 64.

160 RC DCA 1 at para 65.

161 Wife's SUM 100 Affidavit dated 24 May 2024 at paras 20–24.

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87 Rather than ordering C2's tuition and enrichment expenses to be paid on a reimbursement basis that is subject to a pre-determined cap, it is my judgment that those expenses should be included in the monthly maintenance for the Children, to be managed as part of a budget for the Children's expenses. Some of the expenses that C2 is incurring now may no longer be necessary, but he will likely incur new expenses, as he progresses to secondary school with more subjects of study, develops his existing or new interests, and participates in new activities. There will be no refunds to the Husband if the entire provision for maintenance is not utilised under this arrangement. However, the Wife will also have to bear expenses that exceed the amount of maintenance ordered. Further, as the party with significantly more income, the Husband is in a better position to provide for C2's expenses upfront, as compared to the Wife. I therefore decline to order that C2's tuition and enrichment fees be paid on a reimbursement basis, and urge the parties to note the guidance provided by the court in *WRX v WRY* to work collaboratively for the sake of the Children, and to make any necessary adjustments for their maintenance in the years ahead.

Apportionment of the Children's maintenance

Parties' cases on appeal

88 In DCA 1, the Husband submits that the Children's reasonable expenses should be apportioned in the ratio 75 : 25, with the Husband bearing 75%.[162] He submits that the DJ had underestimated the Wife's income capacity, as she could have returned to work in the finance industry,[163] where she previously commanded a monthly income of about $8,794.68.[164] He submits that the Wife

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162 AC DCA 1 at para 226.

163 AC DCA 1 at paras 227–232.

164 AC DCA 1 at para 231.

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could earn $12,500 a month.[165] He also submits that the Wife is in touch with the finance industry as evidenced by her trading activities and the passive income that she earns from day trading.[166] As for the Wife's inability to secure a job, he puts it down to her perfunctory job applications.[167] In response, the Wife submits that the Husband's estimate of the Wife's potential income of $150,000 is speculative, as the Wife has left the financial industry since 2015 and is 52 years old this year, such that it is unlikely that she can return to her previous job. She also argues that her activities as a retail investor is unlikely to have any bearing on a potential employer's hiring decision.[168]

89 In DCA 2, the Wife submits that the Husband should solely maintain the Children.[169] She submits that the DJ had overestimated her income based on her average monthly earnings of $3,294 from December 2021 to April 2022 as a baker working in a commercial kitchen because the job may no longer be available.[170] Further, the DJ's finding was based on her income as a baker during festive periods, which may not reflect her income level for the rest of the year. According to her, a more reasonable figure would be $1,966.85 per month based on her income from September 2021 to February 2023.[171] She further contends that she does not have sufficient income to pay for the Children's expenses after paying for her own expenses, which she estimates at $6,323.83 per month, and which she submits is close to what the DJ must have accepted to be her

165 AC DCA 1 at para 232.

166 AC DCA 1 at para 235.

167 AC DCA 1 at para 234.

168 RC DCA 1 at para 67.

169 AC DCA 2 at para 35.

170 AC DCA 2 at paras 33 and 34(a)–34(c); JROA Vol 3H at p 16: WAM2 at para 27.

171 AC DCA 2 at para 34(b); JROA Vol 3H at p 16: WAM2 at para 29.

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expenses. She explains that in considering whether an adverse inference should be drawn against the Husband, the DJ had substantially accepted the Husband's case of how much he spent for family expenses, which included a component of $201,768 for the Wife's expenses over a period of 40 months (see item 8(e) in the table at [63] above).[172] The Husband, in turn, submits that the DJ had undervalued the Wife's earning capacity, and argues that there is no evidence to support the Wife's contentions. He also emphasises that the Wife has an equal responsibility to maintain the Children.[173]

90 The Husband further seeks to rely on the fresh evidence that he adduced on his health and hospitalisation stay (see [5(a)] above), such as evidence of his cancer diagnosis and the removal of a tumour, to support his position that his productivity levels and future earning capacity have dropped significantly and he may have to incur additional costs to treat his condition in future.[174] The Wife counters that the Husband's claims that he may need further treatment are speculative, as a screening on 16 January 2024 had not revealed any adverse health condition,[175] and that the Husband's claims of low productivity and weakness were unsupported, given his ability to continue travelling for both business and leisure, his continued socialising and his golfing on weekends.[176]

Analysis and decision

91 Under s 68 of the Women's Charter, both parents have an equal duty to maintain or contribute to the maintenance of the Children. However, while both

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172 AC DCA 2 at para 34(e).

173 RC DCA 2 at paras 71–77.

174 Husband's SUM 100 Affidavit at paras 7–9, 11 and 16–20.

175 Wife's SUM 100 Affidavit dated 24 May 2024 at para 15.

176 Wife's SUM 100 Affidavit dated 24 May 2024 at paras 16–18.

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parents are equally responsible for providing for their children, it does not necessarily follow that every component of this duty must be equally borne mathematically. Instead, the financial obligations of the parents may differ depending on their means and capabilities (*UHA v UHB and another appeal* [2020] 3 SLR 666 at [36]). Financial capability need not be rigidly ascertained by sole reference to income alone, and consistent with s 69(4)(*b*) of the Women's Charter, the court should consider the parties' "income, earning capacity (if any), property and other financial resources", as well as significant liabilities and financial commitments, and the assets received by the parties after the division of their matrimonial assets (*WBU v WBT* at [38]). The quantum of reasonable maintenance to be borne in each case turns on its own facts (*WBU v WBT* at [39]).

92 I find the Husband's case that the Wife could rejoin the finance industry and command a monthly income of $12,500 likely to be overly optimistic, and the Wife's case that her monthly income of $1,966.85 as a baker likely to be overly conservative. In this case, the Wife has stated that she intends to continue her home baking business. There is bound to be a period of transition as the Wife builds her business and works to regain financial independence. The DJ therefore did not err in declining to adopt a figure of her earnings based on what the business generated at the start of the venture. It was not unreasonable for the DJ to expect that the Wife's income from the home baking business would not stagnate at the level when it was new, and to grow over time instead. It would also not be unreasonable to adopt an earnings figure based on the amount the Wife could possibly earn in a job she could be hired for, *ie,* as a baker in a commercial bakery. The DJ also did not err in declining to adopt a figure based on what the Wife could possibly earn in senior positions in the finance industry. I concur with the DJ that it would be unrealistic to expect the Wife to command a salary of someone in a senior position in the finance industry after the nine

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years that she has been out of the industry, especially given that she was not even holding a senior position when she left full-time employment at the age of 42.[177] The estimate of the Wife's earning capacity based on her employment in a commercial kitchen, at an average of $3,294.08 per month, is an appropriate estimate that is grounded in her recent employment experience.

93 As for the fresh evidence on the Husband's medical condition that the Husband claims will affect his earnings or earning capacity, I am not persuaded that his health has been affected in a way or to an extent that warrants appellate intervention. Accordingly, I dismiss both parties' appeals against the DJ's decision on the Children's maintenance.

Whether the DJ had erred in ordering that there be no maintenance payable to the Wife

Decision below

94 The DJ did not order spousal maintenance, given the Wife's earning capacity of about $3,294.08 per month and the "considerable share of the matrimonial property" that she would receive.[178]

Parties' cases on appeal

95 The Wife submits that she has suffered significant financial prejudice after leaving her employment.[179] She submits that the sum that she would receive from the sale of the matrimonial property is just the Husband's gross salary for one year, and the order on the division of matrimonial assets does not

177 GD at [112].

178 GD at [123].

179 AC DCA 2 at paras 38–39.

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sufficiently equalise the financial statuses of the parties.[180] Therefore, she submits that spousal maintenance of $4,400 a month, the difference between her purported expenses of $6,323.83 and her income earning capacity of $1,966.85, should be ordered.[181]

96 The Husband argues that the DJ had considered the issue of financial prejudice suffered by the Wife in quitting her job, and concluded such prejudice to be minimal as she was not a "high flyer".[182] He contends that the Wife has to exert herself to earn as much as she reasonably can, which she had not done with her "very perfunctory" job applications for jobs in the financial industry.[183] In addition, he asserts that the Wife's share of the assets was a substantial sum that would even out any financial inequalities between the parties.[184] The Husband similarly seeks to rely on the fresh evidence relating to his health condition to argue that his earning capacity has been reduced and he may incur increased medical costs in the future.[185]

Analysis and findings

97 Section 114(1) of the Women's Charter sets out a non-exhaustive list of factors to be considered when ordering maintenance after the dissolution of the marriage, with the overarching principle embodied in s 114(2) of the Women's Charter being that of financial preservation, which "requires the wife to be maintained at a standard which is, to a reasonable extent, commensurate with

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180 AC DCA 2 at para 40.

181 AC DCA 2 at para 41.

182 RC DCA 2 at para 82.

183 RC DCA 2 at paras 80 and 83.

184 RC DCA 2 at para 86.

185 Husband's SUM 100 Affidavit at paras 7–9 and 16–20.

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the standard of living she had enjoyed during the marriage" (*Foo Ah Yan v Chiam Heng Chow* [2012] 2 SLR 506 ("*Foo Ah Yan*") at [13]). As explained by the Court of Appeal in *Foo Ah Yan* at [16], and cited with approval in both *ATE v ATD and another appeal* [2016] SGCA 2 at [31] and *TDT v TDS and another appeal and another matter* [2016] 4 SLR 145 at [71], s 114(2) has to be applied in a "*commonsense holistic manner* that takes into account the new realities that flow from the breakdown of the marriage" [emphasis in original]. It bears highlighting that the power to order maintenance is supplementary to the power to order division of matrimonial assets. Courts may take into account each party's share of the matrimonial assets when assessing the appropriate quantum of maintenance to be ordered (*WRX v WRY* at [57], citing *Foo Ah Yan* at [26]).

98 In my judgment, the DJ did not err in declining to order spousal maintenance. The Wife has a degree and additional qualifications, such as her SGUS Industry Certificate in Baking from SHATEC.[186] She has further acquired experience in engaging in economic activities outside of employment, such as starting a home baking business and day trading, and is therefore amply equipped to be financially independent. As stated above, I agree with the DJ's assessment of the Wife's earning capacity of $3,294.08. Further, considering that the Wife only received $1,500 per month for her personal allowance after she left full-time employment, even though household and other expenses were paid by the Husband, it is not unreasonable to come to a view that her earning capacity and the substantial amount from the division of the pool of matrimonial assets would be sufficient to maintain her at the standard of living she had enjoyed during the marriage. In this regard, it bears repeating that the new realities that flow from the family living in two separate households must be

186 JROA Vol 3E at p 352: WAM1 at p 349.

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taken into account. Further, I am satisfied that, being apportioned 48.55% of the matrimonial assets, the Wife would already receive "a fair share of the surplus wealth that had been acquired by the spouses during the subsistence of the marriage" (*Foo Ah Yan* at [22], citing Leong Wai Kum, *Elements of Family Law in Singapore* (LexisNexis, 2007) at p 476). Accordingly, I dismiss the Wife's appeal against the DJ's decision not to order spousal maintenance.

Conclusion and orders made

99 I summarise my orders as follows:

(a) First, I dismiss the appeal against the DJ's order in relation to care and control of the Children.

(b) Second, the division of the matrimonial assets shall be effected in the following manner: the other assets (apart from the matrimonial property), valued at $2,355,723.56, shall be apportioned in the ratio of 51.45 : 48.55, in favour of the Husband. The Wife's share amounts to $1,143,703.79 and the Husband's share amounts to $1,212,019.77.

(c) Based on the DJ's order for the parties to retain the assets held in their own names, and for the Husband to retain the $874.37 in the POSB joint account, the value of the assets assigned to the Husband is $1,602,666.88 and the value of the assets assigned to the Wife is $753,056.68. Accordingly, I order the Husband to transfer the sum of $390,647.11 to the Wife, being the balance of her share of assets (apart from the matrimonial property) after deducting, from the sum of $1,143,703.79, the value of the assets assigned to the Wife (in the sum of $753,056.68). $130,000 of $390,647.11 shall be paid by way of cash

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and the remaining amount shall be paid by way of transfer from the Husband's CPF Special Account to the Wife's CPF Special Account.

(d) I order the net sale proceeds of the matrimonial property, being the sale price less the outstanding housing loan and expenses for the sale of the property, to be divided in the ratio of 51.45 : 48.55 in favour of the Husband.

(e) The proceeds of sale of the matrimonial property are to be applied in the following order:

(i) Payment of the outstanding housing loan and expenses for the sale of the matrimonial property;

(ii) Refund of CPF monies utilised by the parties to purchase the property, including accrued interest;

(iii) Refund of cash payments, if any, made by the parties towards the mortgage after 5 December 2023;

(iv) Payment of the balance to the Wife after deducting (i) to (iii) above; and

(v) If the total amount received by either party from (ii) to (iv) above exceeds the percentage of the net sale proceeds they are entitled to in accordance with (d) above, the party receiving more is ordered to transfer that difference to the other party's CPF Ordinary Account from their own CPF Ordinary Account within two weeks after the completion of the sale of the matrimonial property.

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(f) Third, the DJ's order for the matrimonial property to be sold in the open market stands, subject to any agreement between the parties for the transfer of the Wife's share to the Husband at an agreed price;

(g) Fourth, pending the completion of the sale of the matrimonial property, the parties are to bear the housing loan payments, property tax, contributions to the condominium sinking fund, and management fee in the ratio of 51.45 : 48.55, with the Husband bearing 51.45%. Each party is to bear half of the utility charges up to the date that he or she moves out of the matrimonial home. Where either party paid more than his or her proportionate share of these expenses, the other party shall refund the excess payments within two weeks after the completion of the sale of the matrimonial property;

(h) Fifth, the appeals against the DJ's order pertaining to child maintenance is dismissed; and

(i) Sixth, the appeal against the DJ's order pertaining to spousal maintenance is dismissed.

100 I will hear the parties on costs of the appeals and the application in SUM 100 if costs are not agreed.

Teh Hwee Hwee
Judge of the High Court

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