IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGHCF 14

District Court Appeal No 16 of 2024

Between

WXD

… *Appellant*

And

WXC

… *Respondent*

District Court Appeal No 17 of 2024

Between

WXC

… *Appellant*

And

WXD

… *Respondent*

District Court Appeal No 17 of 2024 (Summons No 210 of 2024)

Between

WXC

… *Applicant*

And

WXD

… *Respondent*

In the matter of Divorce Suit No 3391 of 2020

Between

WXC

… *Plaintiff*

And

WXD

… *Defendant*

JUDGMENT

[Family Law — Matrimonial assets]

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WXD
v
WXC and another appeal and another matter

[2025] SGHCF 14

General Division of the High Court (Family Division) — District Court Appeals Nos 16 and 17 of 2024 and Summons No 210 of 2024
Tan Siong Thye SJ
19, 26 November 2024

18 February 2025 Judgment reserved.

Tan Siong Thye SJ:

Introduction

1 HCF/DCA 16/2024 ("DCA 16") and HCF/DCA 17/2024 ("DCA 17") are the Husband's and the Wife's appeals respectively against the decision of the learned District Judge ("DJ") on the ancillary matters in FC/D 3391/2020, rendered on 23 January 2024 with brief grounds therefor. The appeals concern the identification and division of matrimonial assets.

Background

2 The parties were married on 12 December 2009 in Singapore.[1] The Wife was 47 years old and the Husband was 49 years old when the Wife commenced

[1] Joint Record of Appeal dated 24 June 2024 ("JRA") Vol 2 p 29.

divorce proceedings against the Husband on 12 August 2020.[2] This was the second marriage of both parties, and they have two adult children each from their previous marriages.[3] The parties have two sons, "Y" and "Z" (collectively, the "Children"), born of the present marriage, aged 14 years old and 13 years old respectively as of the date of the hearing of the appeals.[4] Y has been diagnosed with autism and attends a specialised school.[5] The Wife has also given evidence that Z has learning difficulties,[6] which the DJ accepted.[7]

3 The Wife was unemployed at the time the divorce was commenced.[8] Her evidence was that she ran a drinks stall in a primary school canteen until March 2018, when the deterioration in her health (following her stroke) prevented her from working.[9] The evidence is not clear as to when the Wife started running the drinks stall. The Husband operated his own companies, which were declared in his first affidavit of assets and means to be [Business M] and [Business T].[10] The Wife suffered two strokes, one in 2017 and another in August 2020, which left her physically incapacitated and unable to walk.[11]

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[2] JRA Vol 2 p 26.

[3] JRA Vol 2 p 45.

[4] JRA Vol 2 p 27.

[5] JRA Vol 3B(1) p 492.

[6] JRA Vol 3B(1) p 492.

[7] JRA Vol 1 p 43 at para 46.

[8] JRA Vol 3B(1) p 472 at para 6.

[9] JRA Vol 3B(2) p 16 at para 20.

[10] JRA Vol 3B(1) pp 9–11 and 19.

[11] JRA Vol 3B(1) at pp 485–486.

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4 Interim Judgment ("IJ") was granted on 4 March 2021.[12] The ancillary matters were heard before the DJ on 17 January 2023, 21 March 2023, 20 April 2023, 26 July 2023, 5 September 2023, 10 October 2023, and 23 January 2024.[13] The DJ's judgment on the ancillary matters was delivered on 23 January 2024, and the grounds of her judgment are found in her Notes of Evidence dated 23 January 2024 (the "NE Judgment"),[14] circulated by Registrar's Notice without the attendance of parties after hearing from parties earlier that day.[15]

5 On 5 February 2024, the Husband filed the appeal in DCA 16 against the DJ's decision on the ancillary matters (limited in scope to the division of matrimonial assets apart from the parties' matrimonial flat).[16] On 6 February 2024, the Wife filed the cross-appeal in DCA 17 (limited in scope to the division of matrimonial assets and spousal maintenance).[17] On 1 July 2024, the Wife filed HCF/SUM 210/2024 ("SUM 210") to adduce further evidence for the appeal in DCA 17.[18]

Decision below

6 The DJ granted care and control of the Children to the Wife, with liberal access to the Children for the Husband.[19] The DJ noted that it was undisputed that the Children had been living under the care of the Wife and her support

12 JRA Vol 2 p 123.

13 JRA Vol 1 45–146.

14 JRA Vol 1 p 45.

15 JRA Vol 1 pp 98–99.

16 JRA Vol 2 pp 8–9.

17 JRA Vol 2 pp 10–11.

18 Summons for HCF/DCA 17/2024 (HCF/SUM 210/2024).

19 JRA Vol 1 p 9 at para 7.

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network.[20] The DJ found that continuity of care and stability would be the priority concern, and that, as between the parties, the Wife was the primary caregiver of the Children.[21] The DJ found that the Wife had tapped onto her adult children from her previous marriage to help her with caregiving for the Children, given her condition after her strokes. The Wife did not relinquish the care of the Children altogether. This showed her strong commitment to the care of, and her love for, the Children.[22] The DJ further found that there was no evidence that the Husband shared a close relationship with the Children. There was little evidence of the Husband making real attempts to see the Children despite the medical condition of the Wife.[23]

7 In relation to the division of the matrimonial assets, the DJ found that the matrimonial pool of assets consisted of the following:[24]

S/No	**Description**	**Value of Asset (in Singapore Dollars)**
Valued assets/liabilities in the Wife's name		
1.	POSB XXX-XX866-3	$128,161.81
2.	OCBC XXX-X-XX9053	$128,161.81
3.	UOB XXX-XXX-669-5	$124,730.08

20 JRA Vol 1 p 8 at para 4.

21 JRA Vol 1 p 8 at para 4.

22 JRA Vol 1 p 8 at para 4.

23 JRA Vol 1 pp 8–9 at para 5.

24 JRA Vol 1 pp 23–39 at para 25.

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4.	XXX-X-XX5560	$5,619.41
5.	XXX-X-XX1122	$8,861.65
6.	GE Premierlife Generation policy no. XXXXXX7678	$250,000.00
7.	Matrimonial Home	$565,000.00
8.	Wife's Central Provident Fund ("CPF") Ordinary Account	$46,687.52
9.	Wife's CPF Medisave Account	$15,770.31
10.	Wife's CPF Special Account	$23,255.62
11.	Wife's jewellery in safe	$4,000.00
12.	Cash in Wife's safe	$13,259.35
Net assets in Wife's name		$1,313,507.56
Valued assets/liabilities in the Husband's name		
13.	POSB bank account no. XXX-XX062-3	$4,342.37
14.	Husband's CPF Ordinary Account	$68,369.88
15.	Husband's CPF Special Account	$20,462.38

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16.	Husband's CPF Medisave Account	$38,168.49
17.	Malaysian Property 1	$111,637.58
18.	Malaysian Property 2	$15,068.48
19.	Shareholding in [Business T]	$425,000.00
20.	All business assets in relation to [Business M]	$139,000.00
21.	Liability relating to Public Islamic Bank account no. XXXXXXX6609	- $226,279.07
22.	Liability to Inland Revenue Authority of Singapore ("IRAS")	- $133,738.92
23.	Liability relating to [Business T] (director's loan)	- $36,079.00
24.	Liability relating to Recycle Pallet	- $12,951.70
Net assets in Husband's name		$413,000.00
Total pool of assets		$1,726,407.46

8 The Wife received insurance payouts from her critical illness insurance plans ("CI Plans") as a result of her strokes. The DJ held that these payouts ought not to be added to the matrimonial pool of assets for division.[25] The DJ held that these policies were meant to cover the Wife's expenses and treatment

[25] JRA Vol 1 p 21 at para 10.

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upon her disability. The moneys were not intended for the family, thus the moneys were not matrimonial assets to be divided with the Husband upon divorce.[26] Further, the DJ opined that the insurance payouts triggered by the unfortunate event of the insured's illness or disability were not economic gains or wealth that had been accumulated which ought to be divided at the end of the marriage.[27] The DJ, however, took these sums received by the Wife into account when considering the issue of maintenance for the Wife.[28] The DJ further opined that the Husband could claw back the insurance payouts from the matrimonial pool of assets if he could demonstrate bad faith on the Wife's part. For instance, if the Wife had deliberately taken out such policies knowing that the triggering event for payouts to be made therefrom would occur.[29] The DJ held that there was no evidence to this effect.[30] Thus, the DJ excluded the following insurance payouts to the Wife from the matrimonial pool of assets:[31]

S/No	**Description**	**Value of Asset (in Singapore Dollars)**
1.	Tokio Marine Life and accident policy no. XX5267	$105,905.88
2.	AIA Secure Critical Cover policy no. XXXXXX3511	$102,130.00
3.	AIA Solitaire policy no. XXXXXX2678	$180,000.00
4.	Aviva MyFlexiSaver policy no. XXXX2496	$60,995.22

26 JRA Vol 1 p 21 at para 10.

27 JRA Vol 1 p 21 at para 11.

28 JRA Vol 1 p 21 at para 13 and p 42 at para 38.

29 JRA Vol 1 p 21 at para 14.

30 JRA Vol 1 p 21 at para 14.

31 JRA Vol 1 pp 26–29, 32, and 34 (S/Ns 7–9, 15 & 22).

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5.	Aviva MyCare Plus 400 Policy No. XXXX1293	$3,000.00 lump sum benefit + $1,200.00 monthly payouts for the rest of Wife's life
Subtotal of Wife's CI Plans' payouts		$452,031.10 + $1,200.00 monthly payouts for the rest of Wife's life

9 The Wife also sought to add the value of lorries owned by [Business L], a firm for which the sole registered director and shareholder was the Husband's alleged mistress, Ms X, to the valuation given to [Business M].[32] This would have boosted the value of the total assets held in the Husband's sole name and thereby enlarged the matrimonial pool of assets available for division. The suggestion made by the Wife was that [Business L] was set up by the Husband with his alleged mistress and was being used to keep moneys out of reach from the Wife.[33] The DJ held that the court could not adjust the valuation provided for [Business M] by the expert valuer unless it could be proven, with cogent evidence, that the expert was clearly or obviously wrong, especially as the parties had agreed to the valuation by the expert.[34] The DJ further held that the allegation that [Business L] was being used to keep moneys out of the Wife's reach was only based on the Wife's suspicion.[35]

10 In relation to the division of the matrimonial pool of assets, the parties submitted on the basis of the approach for *inter alia* dual-income marriages as

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32 JRA Vol 1 p 23 at para 23.

33 JRA Vol 1 p 23 at para 23.

34 JRA Vol 1 p 23 at para 24.

35 JRA Vol 1 p 23 at para 24.

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set out in *ANJ v ANK* [2015] 4 SLR 1043 ("*ANJ*").[36] The DJ noted that the matrimonial home (see S/N 7 at [7] above) was purchased by the Wife and her late husband, although there was a dispute over which party was responsible for servicing the mortgage payments following the Wife's strokes. However, in the circumstances, the DJ declined to hold that the Husband had made any direct financial contributions to the matrimonial home (and the mortgage liabilities therefor).[37] The DJ adopted the classification methodology towards the division of the matrimonial assets and so divided the matrimonial home with a different ratio for division than that for the rest of the matrimonial assets.[38]

11 For indirect contributions, the DJ found that the evidence suggested that, prior to the Wife ceasing her work on account of her medical condition, the Husband was much busier at work as compared to the Wife.[39] The DJ accepted that the Husband was, more likely than not, responsible for the family's upkeep, but it was largely the Wife who saw to the Children's needs.[40] The DJ rejected the Wife's claim that she had been receiving significant rental proceeds from renting out one of the rooms in the matrimonial home.[41] The DJ held that it was not likely that the Wife had any sizeable amounts of moneys left by her late husband from her first marriage, but the DJ accepted that the Wife rendered some assistance to the Husband in the early years of his business.[42] The DJ held that it was likely that in the early years of the marriage, the parties had pooled

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36 JRA Vol 1 p 39 at para 27.

37 JRA Vol 1 pp 39–40 at para 28.

38 JRA Vol 1 p 40 at para 29.

39 JRA Vol 1 p 40 at para 30.

40 JRA Vol 1 p 40 at para 30.

41 JRA Vol 1 p 40 at para 31.

42 JRA Vol 1 p 40 at para 31.

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their funds together.[43] The DJ held that the marriage was one where the Husband left it largely to the Wife to run and manage the household while he was busy at work.[44] The DJ took into account that the Wife was not a full-time housewife and that she had to delegate caregiving duties for the Children to her adult sons from her previous marriage after 2017 as a result of her first stroke. The DJ also found that the Husband had contributed by sending the Children to school and financially supporting the family as the sole breadwinner. The DJ also considered that the Husband's financial wherewithal assisted the Wife in acquiring assets in her name.[45] The DJ ultimately concluded that an indirect contributions ratio of 55:45 in favour of the Husband was just and equitable.[46]

12 The DJ applied *ANJ* and adopted the classification methodology in dividing the matrimonial assets and arrived at the following outcomes:[47]

Matrimonial Home		
Parties' contributions	**Wife**	**Husband**
Direct financial contribution	100%	0%
Indirect contribution	45%	55%
Average	**72.5%**	**27.5%**

43 JRA Vol 1 p 40 at para 31.

44 JRA Vol 1 p 40 at para 31.

45 JRA Vol 1 p 41 at para 32.

46 JRA Vol 1 p 41 at paras 32–33.

47 JRA Vol 1 p 41 at para 33.

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The rest of the matrimonial assets (excluding matrimonial home valued at $565,000.00)		
Parties' contributions	**Wife**	**Husband**
Direct financial contribution	$748,507.00	$413,000.00
Total direct financial contribution	$1,161,507.00	
Direct financial contribution	64.5%	35.5%
Indirect contribution	45%	55%
Average	54.75% rounded off to **55%**	45.25% rounded off to **45%**

13 Applying the ratios above, the DJ held that the Wife's total share of matrimonial assets, including the matrimonial home valued at $565,000, was $1,048,399.00 whereas the Husband's share was $678,008.00. After retaining assets in their own name, the Husband was owed $265,008.00 while the Wife had a surplus of $265,008.00.[48] The DJ gave the parties the opportunity to work out the implementation of the aforesaid division of the matrimonial assets with liberty for the parties to write to court for directions and orders if they were unable to agree on the implementation between themselves.[49]

[48] JRA Vol 1 p 41 at para 36.

[49] JRA Vol 1 p 41 at para 37.

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14 The Judge did not award spousal maintenance, in view of the Wife's share of the assets, and in view of the fact that the Wife also had the benefit of the CI Plans' insurance payouts, which were excluded from the matrimonial pool of assets.[50] As for maintenance for the Children, the DJ ordered the Husband to pay a total sum of $2,124.00 as monthly maintenance for both Children.[51] The Husband was also ordered to continue paying the Children's pocket money, bus fare for Y, and any other expenses that were being paid directly for the benefit of the Children.[52] The Husband was further ordered to bear 78.5% of any tuition or enrichment classes for the Children, subject to a cap of $500.00 for each child and the production of relevant invoices or receipts from the Wife or her proxy.[53]

Issues for decision

15 In DCA 16, the Husband appeals against the DJ's decision on the identification and division of the matrimonial assets, excluding the matrimonial home.[54] The Wife's appeal in DCA 17 centres on her argument that the assets held under [Business L] ought to have been included and valued as part of the pool of matrimonial assets and divided between the parties.[55]

16 I shall first explain my decision, rendered at the hearing on 19 November 2024, that the Wife was not allowed to adduce fresh evidence *via* SUM 210 to support her appeal in DCA 17.

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50 JRA Vol 1 p 42 at para 38.

51 JRA Vol 1 p 44 at para 50(6).

52 JRA Vol 1 p 44 at para 50(8).

53 JRA Vol 1 p 44 at para 50(9).

54 Appellant's Case in DCA 16 dated 1 July 2024 ("AC (DCA 16)") at para 1.1.

55 Appellant's Case in DCA 17 dated 1 July 2024 ("AC (DCA 17)") at para 10.

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17 I shall then turn to the following issues which arise for decision in these appeals:

(a) whether the payouts to the Wife from the CI Plans ought to be included in the matrimonial pool of assets and divided between the parties;

(b) whether this court ought to make consequential orders relating to Malaysian Property 1 and Malaysian Property 2 (collectively, the "Malaysian Properties") to have them transferred to the Husband's sole name;

(c) whether the DJ was correct in finding that the parties' direct financial contributions to the matrimonial assets (excluding the matrimonial home) were in the ratio of 64.5:35.5 in favour of the Wife;

(d) whether the DJ was correct in finding that the parties' indirect contributions to the matrimonial assets were in the ratio of 45:55 in favour of the Husband;

(e) whether the DJ was correct in giving equal weight to the parties' direct contributions and indirect contributions to the marriage;

(f) whether the DJ erred in rounding the parties' average contributions to a whole number in favour of the Wife instead of the Husband; and

(g) whether the assets held by [Business L] ought to have been included and valued as part of the matrimonial pool of assets and divided between the parties.

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Issue 1: SUM 210

18 At the hearing on 19 November 2024, I heard and dismissed SUM 210. I shall now explain the grounds for my decision.

Parties' submissions

Wife's submission

19 The Wife sought to adduce fresh evidence in DCA 17 *via* SUM 210, which evidence, according to the Wife, "shows that [Business L] remains an alter ego of the Husband and on the facts at least, an inseparable twin of his existing companies, [Business T] and [Business M]".[56] The Wife argued that, in relation to evidence in existence prior to the conclusion of the ancillary matters hearings below, *ie*, 23 January 2024, the starting point for introducing such evidence would be the test set out in *Ladd v Marshall* [1954] 1 WLR 1489 ("*Ladd v Marshall*").[57] The Wife further argued that, in relation to evidence not in existence or not known to have been in existence at the time of the conclusion of the ancillary matters hearings below, a modified test applied with a specific emphasis on whether the fresh evidence sought to be adduced would have a "perceptible impact" on the decision.[58] The Wife also argued that, for evidence relating to matters occurring before the date of the decision appealed against, the evidence might still be admitted in the event one party was constrained from being able to adduce that evidence given any specific circumstances.[59]

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56 AC (DCA 17) at paras 44 and 48; Appellant's Submissions on SUM 210 dated 19 August 2024 ("AS (SUM 210)") at para 19.

57 AC (DCA 17) at para 45; AS (SUM 210) at para 14.

58 AC (DCA 17) at para 46; AS (SUM 210) at para 15.

59 AS (SUM 210) at para 16.

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20 The fresh evidence sought to be adduced by the Wife fell into five categories:

(a) The first piece of evidence ("Employment Contract and Certificate") was the employment contract of one Mr S dated 23 April 2023 and the Certificate of Test/Thorough Visual Examination for Lorry Number XD XXXXX dated 11 April 2024.[60] According to the Wife, this evidence linked the employee of [Business M] with [Business L].[61]

(b) The second piece of evidence ("[Business L's] Delivery Orders") was [Business L's] delivery orders dated 1 February 2024.[62] According to the Wife, this evidence linked an employee of [Business M] with a lorry belonging to [Business T] to the business of [Business L] and thereby showed the commingling of business between the three companies.[63]

(c) The third piece of evidence ("[Business T's] Sample Delivery Order") was [Business T's] sample delivery order.[64] According to the Wife, this evidence showed the similarities between [Business L's] Delivery Orders and [Business T's] Sample Delivery Order, which showed that the Husband was involved in [Business L's] business.[65]

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60 AC (DCA 17) at para 49(a); AS (SUM 210) at para 21; Affidavit-in-Support of Summons to Adduce Further Evidence dated 27 June 2024 ("Wife's Affidavit (SUM 210)") at pp 12–15.

61 AC (DCA 17) at para 49(a)(ii); AS (SUM 210) at para 21(ii).

62 AC (DCA 17) at para 49(b); AS (SUM 210) at para 22; Wife's Affidavit (SUM 210) at pp 17–26.

63 AC (DCA 17) at para 49(b)(ii); AS (SUM 210) at para 22(ii)(ii).

64 AC (DCA 17) at para 49(c); AS (SUM 210) at para 23; Wife's Affidavit (SUM 210) at p 32.

65 AC (DCA 17) at para 49(c)(ii); AS (SUM 210) at para 23(ii)(i).

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(d) The fourth piece of evidence ("One Motoring Particulars") was a One Motoring Vehicle Particulars document and the Unique Entity Number search result for a Lorry with the Vehicle No. XDXXXXX registered under [Business T].[66] According to the Wife, this evidence further showed the similarities between [Business L's] Delivery Orders and [Business T's] Sample Delivery Order, which showed that the Husband was involved in [Business L's] business.[67] The Wife further argued that the new evidence, when collectively examined, showed that the Husband engaged in an elaborate plan where [Business M's] employee drove a lorry registered under [Business T] to fulfil delivery orders for [Business L], which then got to bill the client accordingly.[68] The Wife argued that this showed that the Husband used [Business L] as a front for billing and collecting payment for services provided by [Business M] and [Business T], whilst making the latter two companies bear the expenses incurred in carrying out those services.[69] The Wife contended that this made [Business L] a sham and/or a façade.[70]

(e) The fifth piece of evidence ("Husband's IRAS 2019 Notice") was the Husband's IRAS Notice of Assessment for the year 2019 dated 12 December 2023.[71] According to the Wife, this evidence showed that the Husband made an income of $657,487.00 and the tax payable on this

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66 AC (DCA 17) at para 49(d); AS (SUM 210) at para 24; Wife's Affidavit (SUM 210) at p 34.

67 AC (DCA 17) at para 49(d)(ii); AS (SUM 210) at para 24(ii).

68 AC (DCA 17) at paras 51–53.

69 AC (DCA 17) at para 53; AS (SUM 210) at paras 26–28.

70 AC (DCA 17) at paras 55 and 58; AS (SUM 210) at paras 45–46.

71 AC (DCA 17) at para 49(e); AS (SUM 210) at para 25; Wife's Affidavit (SUM 210) at pp 36–37.

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was $114,791.14 in 2019, which appeared to outstrip the value of the Husband's companies when they were valued in late 2020 soon after the inception of [Business L].[72]

21 The Wife contended that, even though the Employment Contract and Certificate, [Business T's] Sample Delivery Order and One Motoring Particulars existed prior to the conclusion of the ancillary matters hearings below, the non-availability condition in *Ladd v Marshall* had still been satisfied as the Wife was not aware of the existence of these documents when they were created and/or the documents would not have been significant to her in the hearings below.[73] The Wife contended that the *Ladd v Marshall* test was inapplicable to the [Business L's] Delivery Orders as the evidence did not exist prior to 23 January 2024.[74]

22 The Wife argued that, to the extent that the Husband's case was that the fresh evidence sought to be adduced in SUM 210 was acquired in a questionable manner, this would only go to the weight to be given to the evidence instead of the admissibility of the evidence.[75] The Wife submitted that the probative value of the fresh evidence was greater than any prejudicial effect such that the court ought not to invoke its exclusionary discretion.[76] The Wife submitted that there would be minimal to no prejudicial effect against the Husband from the admission of the fresh evidence.[77]

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[72] AC (DCA 17) at para 49(e)(ii); AS (SUM 210) at para 25(ii)(ii).

[73] AC (DCA 17) at paras 49(a)(i), 49(c)(i), 49(d)(i) and 49(e)(i); AS (SUM 210) at paras 21(i), 23(i), 24(i) and 25(i).

[74] AC (DCA 17) at para 49(b); AS (SUM 210) at para 22(i).

[75] AS (SUM 210) at para 31.

[76] AS (SUM 210) at paras 32 and 37.

[77] AS (SUM 210) at paras 35–41.

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Husband's submission

23 The Husband argued that SUM 210 ought to be dismissed as the Wife had not shown any special grounds to warrant the admission of fresh evidence in DCA 17.[78] The Husband argued that the evidence sought to be adduced by the Wife suffered from credibility issues.[79] According to the Husband, the evidence was acquired by the Wife in questionable circumstances.[80] Much of the evidence came from the Wife's son from her previous marriage, not sworn or affirmed in any affidavit of his own, and was thus hearsay.[81] The evidence went against the parties' mutual agreement to appoint valuers.[82] Further, the Wife had opportunities and avenues to obtain the evidence for use in the court below. Thus, the non-availability condition in *Ladd v Marshall* was not satisfied.[83] The Husband had consistently disclosed that Ms X was still assisting with his businesses.[84] The Husband alleged that the Wife had a history of lying and conducting litigation in a manner reflecting her bad faith.[85] The Husband contended that since the Wife had affirmed on affidavit that she did not have personal knowledge of how the fresh evidence was obtained, the court had no way to make a threshold determination of the credibility of the materials.[86] The Husband further submitted that the Wife had not credibly shown how the fresh

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78 Respondent's Case in DCA 17 dated 12 August 2024 ("RC (DCA 17)") at paras 5.1 and 5.3(j); Respondent's Submissions on SUM 210 dated 19 August 2024 ("RS (SUM 210)") at paras 47–50.

79 RC (DCA 17) at para 5.3(a); RS (SUM 210) at para 16.

80 RC (DCA 17) at para 5.3(a)(i); RS (SUM 210) at paras 17–18.

81 RS (SUM 210) at paras 20–21.

82 RC (DCA 17) at para 5.3(a)(ii).

83 RC (DCA 17) at paras 5.3(a)(iii), 5.3(c) and 5.3(d); RS (SUM 210) at para 36.

84 RC (DCA 17) at para 5.3(a)(iv).

85 RC (DCA 17) at para 5.3(a)(v); RS (SUM 210) at para 19.

86 RC (DCA 17) at para 5.3(b).

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evidence would have an important influence on the outcome in DCA 17.[87] According to the Husband, the fresh evidence raised no material issue because there was still no actual evidence of siphoning or dissipation of matrimonial assets.[88] The Husband contended that he had provided sufficient evidence and explanations to demonstrate that [Business L] was treated by him as a separate entity at all times, with his own businesses acting as a subcontractor for [Business L] and with [Business L] actually benefiting (instead of detracting from) the Husband's businesses.[89] The Husband also argued that his IRAS 2019 Notice was not probative for the Wife's case as this document simply showed an adjustment in relation to the declaration of his income.[90]

Law on admission of fresh evidence on appeal

24 The first port of call, in considering the admission of fresh evidence in a matrimonial appeal, is s 22 of the Supreme Court of Judicature Act 1969 (2020 Rev Ed) ("SCJA") and r 831 of the Family Justice Rules 2014 ("FJR").

25 Section 22 of the SCJA stipulates the powers of the General Division of the High Court to receive further evidence when exercising its appellate civil jurisdiction. The relevant subsections that relate to the admission of further evidence on appeal provide as follows:

> **Powers of rehearing**
>
> **22.**— …
>
> (3) Subject to the provisions of this Act and any other written law, the General Division may receive further evidence —

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[87] RC (DCA 17) at paras 5.3(e) and 5.3(f).

[88] RC (DCA 17) at paras 5.3(g) and 5.3(h).

[89] RS (SUM 210) at paras 44.1–44.3.

[90] RS (SUM 210) at para 44.4.

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> (*a*) by oral examination in court;
>
> (*b*) by affidavit;
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> (*c*) by deposition taken before an examiner or a commissioner; or
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> (*d*) in any other manner as the court may allow.
>
> (4) Except as provided in subsection (5), such further evidence may be given to the General Division only with the permission of the General Division and on special grounds.
>
> (5) Such further evidence may be given to the General Division without permission if the evidence relates to matters occurring after the date of the decision appealed against.

26 Section 23 of the Family Justice Act 2014 (2020 Rev Ed) ("FJA") provides for the Family Division of the High Court to exercise the appellate civil jurisdiction of the General Division of the High Court (conferred under s 20 of the SCJA) when hearing civil appeals from the Family Court. Section 4(2) of the FJA states that: "Subject to this Act, the provisions of the Supreme Court of Judicature Act 1969 apply to the Family Division of the High Court."

27 Rule 831 of the FJR further elaborates on the powers of the Family Division of the High Court in receiving further evidence on appeal. The relevant sub-rules provide as follows:

> **General powers of Court**
>
> **831.**—(1) The Family Division of the High Court has the power to receive further evidence on questions of fact, either by oral examination before it, by affidavit, or by deposition taken before an examiner.
>
> (2) Despite paragraph (1), in the case of an appeal from a judgment after trial or hearing of any cause or matter on the merits, no such further evidence (other than evidence as to matters which have occurred after the date of trial or hearing) shall be admitted except on special grounds.
>
> (3) The Family Division of the High Court has the power to —

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> (*a*) draw inferences of fact and to give any judgment and make any order which ought to have been given or made; and
>
> (*b*) to make such further or other order as the case may require.

…

28 As noted by the Court of Appeal in *TSF v TSE* [2018] 2 SLR 833 ("*TSF*") at [43], when interpreting a similar provision of the SCJA which related to the power of the Court of Appeal to receive further evidence in an appeal, the SCJA drew a distinction between fresh evidence relating to matters that occurred *after* the date of the decision from which the appeal was brought, and matters which occurred *before* the date of the decision. In the case of fresh evidence relating to matters that occurred *after* the date of the decision, the test was whether the further evidence would have a "*perceptible impact* on the decision such that it is in the interest of justice that it should be admitted" [emphasis in original] (*Yeo Chong Lin v Tay Ang Choo Nancy and another appeal* [2011] 2 SLR 1157 at [13] (the "*Yeo Chong Lin* test"); *TDT v TDS and another appeal and another matter* [2016] 4 SLR 145 at [25]). The Court of Appeal at [99(a)] of *BNX v BOE and another appeal* [2018] 2 SLR 215 further noted that, as a first step to the application of the *Yeo Chong Lin* test, the court should ascertain what the relevant matters were, of which evidence was sought to be given, and ensure that these were matters that occurred after the trial or hearing below.

29 In the case of evidence relating to matters which occurred *before* the date of the decision from which the appeal was brought, the applicant needed to satisfy the "special grounds" requirement (*TSF* at [43]). The operation of this "special grounds" requirement was explained by the Court of Appeal in *UJN v UJO* [2021] SGCA 18 ("*UJN*") at [4], [5] and [7], as follows:

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> **The law on an application for further evidence**
>
> 4 The law on the introduction of fresh evidence is governed by s 59(4) of the Supreme Court of Judicature Act (Cap 322, 2007 Rev Ed), O 57 r 13(1) read with O 55D r 11(1) of the Rules of Court (Cap 322, R5, 2014 Rev Ed) or r 831(2) of the Family Justice Rules 2014 (S 813/2014). The question is whether there are special grounds to allow such evidence. The criteria for "special grounds" is [*sic*] set out in three requirements from *Ladd v Marshall* [1954] 1 WLR 1489 ("*Ladd v Marshall*") which has been applied in Singapore:
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> > (a) First, the evidence could not have been obtained with reasonable diligence for use at the hearing below.
> >
> > (b) Second, the evidence, if given, would probably have an important influence on the result of the case, though it may not be decisive.
> >
> > (c) Third, the evidence must be such as is presumably to be believed, or in other words, it must be apparently credible, though it need not be incontrovertible.
>
> 5 The husband also referred to *Anan Group (Singapore) Pte Ltd v VTB Bank (Public Joint Stock Co)* [2019] 2 SLR 341 for the following propositions. If the appeal is against a decision after a trial or a hearing bearing the characteristics of a trial, the requirements in *Ladd v Marshall* should apply with full rigour, otherwise the court remains guided by *Ladd v Marshall* but is not obliged to apply it strictly. Even in the first category of appeals, the court should still consider the interests of justice in assessing whether to allow the fresh evidence to be adduced.
>
> …
>
> 7 I add one other important point. The court should generally be disinclined to allow a party to adduce fresh evidence on appeal if that evidence is in aid of a position which is inconsistent with the applicant's position below. …

30 The Court of Appeal in *UJN* at [8] had further observed that, in relation to the ancillary matters proceedings following the grant of a divorce at issue there, the court did not agree that the proceedings were akin to a trial, and thus the *Ladd v Marshall* requirements need not have been applied stringently.

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Analysis

31 For SUM 210, the first step was to consider whether the evidence sought to be adduced by the Wife related to matters which occurred *before* or *after* the date of the decision from which the appeal was brought (*viz*, 23 January 2024).

32 In my view, all the fresh evidence sought to be adduced in SUM 210 related to matters which had occurred *before* the date of the DJ's decision. The "matters" in question were the status of [Business L] from its inception as a company to the date of the IJ. The Wife sought to adduce the fresh evidence to show that [Business L] ought to be considered a matrimonial asset for division, or at least that it had been used by the Husband to hide matrimonial assets which ought to be included in the matrimonial pool of assets for division. The "matters" thus temporally pre-dated the DJ's decision, and fresh evidence about these matters could only be admitted if the Wife had satisfied the *Ladd v Marshall* requirements of: (a) non-availability, (b) relevance and materiality, and (c) credibility.

33 In my view, the fatal flaw in the Wife's application in SUM 210 lay in respect of the non-availability requirement. All the fresh evidence that the Wife sought to adduce could have been secured and presented to the court below if she had exercised "reasonable diligence" to obtain it for the ancillary matters hearing (*Ladd v Marshall* at 1491 (*per* Denning LJ)).

34 The allegation that the value of [Business L] ought to have been included in the matrimonial pool of assets was raised early on in the proceedings below. As early as in the Wife's second ancillary affidavit affirmed on 12 May 2022, she had alleged that [Business L] was set up as a vehicle, under the sole directorship and sole shareholding of Ms X, to divert contracts away from

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[Business T] and [Business M].[91] In the Wife's third ancillary affidavit affirmed on 1 November 2022, she had highlighted the naming similarities between [Business L], [Business M] and [Business T], the similar nature of the business services provided, and the identity of [Business L's] sole shareholder and sole director.[92] In the Wife's supplementary affidavit affirmed on 4 October 2023, she provided evidence alleging that the Husband's PayNow number, which had been used by the Husband personally to receive funds, was being advertised for [Business L's] business.[93] In this affidavit, the Wife also alleged that it was suspicious that [Business L] was registered on 12 September 2020, just one month after the writ of divorce was filed on 12 August 2020.[94] She further adduced evidence of an Accounting and Corporate Regulatory Authority search which showed that [Business L] operated from the same registered address as [Business T]. She also contended that the two companies shared the same registered secretary.[95] Moreover, at the hearings before the DJ, the issue of [Business L] was canvassed orally. The Wife's counsel had broached the issue of getting an expert to look into the Husband's companies' transactions to ascertain the worth of [Business L].[96] The Wife's counsel stated that his "gut instinct" was that some contracts were transferred to [Business L].[97] The Wife's counsel also wanted a valuation of [Business L].[98] He had made submissions on

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[91] JRA Vol 3B(2) p 15 para 18.

[92] JRA Vol 3B(3) p 9 paras 8–10.

[93] JRA Vol 3B(3) pp 468–472 paras 7–18.

[94] JRA Vol 3B(3) p 470 para 14(a).

[95] JRA Vol 3B(3) p 471 para 14(c).

[96] JRA Vol 1 p 62.

[97] JRA Vol 1 p 53.

[98] JRA Vol 1 p 70.

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adverse inferences that ought to be drawn in relation to [Business L].[99] He had even indicated that the Wife could take out a third party suit to examine the Husband's interests in [Business L], but he indicated that the Wife was not in a financial position to do so.[100]

35 The Wife's case below concerning her suspicion that [Business L] was being used to siphon off matrimonial assets was clearly articulated. She had sought to adduce various pieces of evidence to try to connect the dots. All of the further evidence that she sought to adduce for her appeal *via* SUM 210 were evidence of a similar nature to the evidence that she had already found and adduced in the court below. The Employment Contract and Certificate, [Business T's] Sample Delivery Order, One Motoring Particulars and [Business L's] Delivery Orders were all directed towards showing overlaps or connections between [Business L], on the one hand, and [Business M] / [Business T], on the other. These pieces of evidence were, by nature, similar to the evidence that the Wife had already adduced below to support her case, such as evidence that [Business T] and [Business L] shared the same premises and secretary, and the use of the Husband's PayNow number in [Business L's] business. As for the Husband's IRAS 2019 Notice, it was again evidence of a nature that could have been found and adduced below, given the centrality of IRAS filings to matrimonial ancillary proceedings. The Wife was trying to bolster the factual substratum of her case because her evidence below did not manage to persuade the DJ to see things her way. She was trying to bring in more similar evidence, which she could have adduced before the court below. This was evident in the Wife's written submissions in SUM 210, where her counsel submitted that the Wife had "instructed her first born son, [Mr G], to gather evidence that she will

[99] JRA Vol 1 p 76.

[100] JRA Vol 1 p 89.

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be presenting via this Appeal to convince the Honourable Court".[101] This was, unfortunately for the Wife, too much of an attempt to take a second bite at the cherry.

36 I was cognisant that, as discussed at [30] above, ancillary matters proceedings were not akin to a trial, so the *Ladd v Marshall* requirements could be applied with less stringency. However, I was also mindful of the Court of Appeal's guidance in *Anan Group (Singapore) Pte Ltd v VTB Bank (Public Joint Stock Co)* [2019] 2 SLR 341 at [35] that in appeals against a judgment after a hearing of the merits, but which did not bear the characteristics of a trial, it is for the court to determine the extent to which the criterion of non-availability should be applied strictly, having regard to the nature of the proceedings below. The relevant non-exhaustive factors that would bear on the court's determination would include (a) the extent to which evidence, both documentary and oral, was adduced for the purposes of the hearing; (b) the extent to which parties had the opportunities to revisit and refine their cases before the hearing; and (c) the finality of the proceedings in disposing of the dispute between the parties. In my view, the parties had amply ventilated the issue of [Business L] before the DJ. Much evidence was adduced by the Wife and plenty of arguments were made, as noted at [34] above. The Wife had further opportunities to dig deeper into [Business L], such as by taking out third party proceedings against Ms X to ascertain if it was Ms X or the Husband who was the true beneficial owner of [Business L] (see *UDA v UDB and another* [2018] 1 SLR 1015 ("*UDA*") at [56(b)] and [57]). The Wife elected not to go down this path.

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[101] AS (SUM 210) para 6.

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37 The value of finality in matrimonial proceedings is vital. The parties have to close this painful chapter of their lives, and to look forward and start anew (see, as an analogy, the observation of the Court of Appeal in *TNL v TNK and another appeal and another matter* [2017] 1 SLR 609 at [68]–[69] as to the undesirability of matrimonial appeals where the potential adjustment to a spouse's share of the matrimonial assets is less than 10%, for "there is a clear interest in encouraging the parties to move on to face the future instead of re-fighting old battles"). In my view, the non-availability requirement in *Ladd v Marshall* was not satisfied in the Wife's application, and – even without applying the *Ladd v Marshall* requirements too stringently – considering all the circumstances, the Wife's SUM 210 ought to be dismissed.

38 In addition, the fresh evidence that the Wife had sought to adduce in SUM 210 did not satisfy the relevance and materiality requirement in *Ladd v Marshall*. The relevant fact that the Wife needed to prove for her appeal was that [Business L] represented value which formed part of the matrimonial pool of assets. [Business L] was registered on 12 September 2020.[102] IJ was granted less than six months thereafter, on 4 March 2021 (see above at [4]). To add the value of [Business L] to the matrimonial pool of assets when [Business L] is legally owned by Ms X, the Wife would have to show one of two things. Firstly, the Wife would have to show that the Husband had diverted assets from his *pre-existing* assets (such as his bank accounts, [Business T] and/or [Business M]) to [Business L]. Secondly, the Wife would have to show that the Husband was using [Business L] to generate income for himself *prior to* 4 March 2021. 4 March 2021 was the cutoff date because income generated by the Husband *after* the IJ date would no longer be a matrimonial asset to be distributed

102 JRA Vol 3B(2) p 2214.

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between the parties (*AJR v AJS* [2010] 4 SLR 617 ("*AJR*") at [4]), since the IJ date is the presumptive starting point for the operative date to determine the matrimonial pool, unless there are sufficiently cogent reasons to depart therefrom (*ARY v ARX and another appeal* [2016] 2 SLR 686 at [31]–[43]; *BPC v BPB and another appeal* [2019] 1 SLR 608 ("*BPC*") at [25]–[36]).

39 The problem with the Wife's application to adduce fresh evidence, in particular the Employment Contract and Certificate, [Business L's] Delivery Orders, [Business T's] Sample Delivery Order and the One Motoring Particulars, was that these documents were either undated, or dated long after 4 March 2021. These documents did not shed light on what [Business L] was doing in that short window of time between 12 September 2020 and 4 March 2021. As for the last piece of fresh evidence sought to be adduced by the Wife, namely the Husband's IRAS 2019 Notice, it related to the Husband's income tax return for the 2019 year of assessment. This Notice related to income for the year of assessment which pre-dated the registration of [Business L] and it said nothing about [Business L]. Therefore, the fresh evidence sought to be adduced by the Wife likewise failed the relevance and materiality requirement in *Ladd v Marshall.*

40 I therefore dismissed the Wife's application in SUM 210 to adduce further evidence for the appeal in DCA 17.

41 I shall now turn to the merits of the two appeals, namely, DCA 16 and DCA 17.

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Issue 2: The Wife's CI Plans

42 I shall first consider the status of the payouts received by the Wife from the CI Plans, which the Husband challenges the exclusion thereof from the matrimonial pool of assets in his appeal in DCA 16.

Parties' cases

43 The Husband's first ground of appeal in DCA 16 pertains to the DJ's finding that the payouts from the CI Plans purchased by the Wife were not to be included in the matrimonial pool of assets.[103] The Husband contends that the DJ failed to consider that the CI Plans were not intended to compensate the Wife for her expenses relating to her disability,[104] but were instead meant to provide a general cash payout to protect and/or provide for the Wife's family in the event of her becoming critically ill.[105] Further, the CI Plans could be converted into cash even without the Wife suffering any critical illness.[106] The Husband also argues that the Wife has limited financial means while he was the main breadwinner of the family, and hence, that the moneys used to pay for the CI Plans were contributed by the Husband.[107]

44 The Wife contends that the DJ rightly did not include the payouts from the CI Plans in the matrimonial pool of assets.[108] The Wife argues that this was correct because the purpose of the CI Plans was to provide financial stability

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103 AC (DCA 16) at paras 1.12(a), 1.12(b) and 3.

104 AC (DCA 16) at para 3.2.

105 AC (DCA 16) at para 3.3.

106 AC (DCA 16) at paras 3.4–3.5.

107 AC (DCA 16) at paras 3.6–3.9.

108 Respondent's Case in DCA 16 dated 12 August 2024 ("RC (DCA 16)") at para 15.

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and aid for the policyholder at a time of genuine health crisis and debilitating illness and were not intended to be a form of investment.[109] According to the Wife, the payouts from the CI Plans are being used by her for her medical care and to sustain herself after her double strokes in 2017 and 2020.[110] The Wife further contends that the payouts were already adequately considered by the DJ when she declined to award spousal maintenance for the Wife.[111] The Wife also submits that the fact that the Husband had contributed moneys to paying the premiums for the CI Plans is insufficient to entitle the Husband to share in the payouts.[112]

The law

45 The issue of whether medical insurance payouts ought to be included in the matrimonial pool of assets received detailed treatment by Debbie Ong J (as she then was) in the case of *VDZ v VEA* [2020] 4 SLR 921 ("*VDZ*"). At [57], Ong J held that the purpose of the insurance payouts is of critical importance. At [60], Ong J explained that where the medical insurance payouts were meant to cover the spouse's medical expenses and other expenses relating to his or her treatment or condition, the payouts would not be assets acquired as a result of the efforts of the parties nor were they received in the form of income. The payouts would therefore not be matrimonial assets for the purposes of division. I note that Ong J's decision was appealed, albeit not on this issue of the medical insurance payouts, and the appeal was dismissed by the Court of Appeal in *VDZ*

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[109] RC (DCA 16) at para 15.

[110] RC (DCA 16) at paras 16–17.

[111] RC (DCA 16) at para 17.

[112] RC (DCA 16) at para 18.

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v VEA [2020] 2 SLR 858 with no adverse comment against Ong J's decision on the medical insurance payouts.

Analysis

46 In my view, the Husband's appeal on this issue is without merit. The CI Plans' payouts are patently meant to cover the Wife's medical expenses and her other expenses relating to her treatment or condition. As noted above at [3], the Wife had suffered two strokes, which left her physically incapacitated. I note the Husband's counsel's submission that the CI Plans may have been intended to cover the family's expenses if an ill spouse was unable to earn income whilst ill.[113] However, this submission is unsupported by any evidence. It is also inconsistent with the Husband's own characterisation of himself as the "main / substantial breadwinner of the family".[114] In other words, the complexion of the manner in which the parties had organised their economic affairs during the marriage made it unlikely that the parties had the intention that the CI Plans' payouts would be used for the Wife's missing income so as to sustain the family if she became critically ill. Thus, in line with *VDZ* at [60], I treat the CI Plans' payouts as providing for the Wife's medical expenses and issues related to her strokes, and hence not part of the matrimonial pool of assets.

47 The Husband's allegation that the CI Plans could be used to "launder" matrimonial assets by allowing moneys used to buy medical insurance to be automatically kept out of the matrimonial pool of assets is also without merit. The DJ, at [14] of the NE Judgment, opined that if the Husband could demonstrate bad faith on the part of the Wife, such as by showing evidence that

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113 AC (DCA 16) at para 3.3.

114 JRA Vol 3B(1) p 17 para 23.

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she had deliberately taken out the CI Plans after knowing that the triggering event for the payouts would occur, then the Husband may be able to claw back the payouts into the matrimonial pool of assets.[115] However, this is not the Husband's case. It is uncontroversial that an insurance policy purchased by either spouse during marriage, or payouts therefrom, may be regarded as a matrimonial asset: *Saseedaran Nair s/o Krishnan (now known as K Saseedaran Nair) v Nalini d/o K N Ramachandran* [2012] 2 SLR 365 at [17]. If the Wife had not suffered a critical illness and the CI Plans were simply held as investments to be encashed for a profit in the future, they may well have been considered matrimonial assets to be divided. However, this is not the factual situation in this case.

48 I, therefore, dismiss the Husband's ground of appeal in DCA 16 on the DJ's decision to exclude the CI Plans' payouts from the matrimonial pool of assets.

Issue 3: Consequential orders for the Malaysian Properties

Parties' cases

49 The Husband's second ground of appeal in DCA 16 pertains to the DJ's consequential orders relating to the Malaysian Properties.[116] The Husband argues that the DJ ought to have ordered that the Malaysian Properties be transferred to the Husband's sole name since these properties were considered as the Husband's assets when the DJ mapped out the matrimonial pool of assets.[117] The Husband alleges that the DJ double-counted the Malaysian

115 JRA Vol 1 p 21 para 14.

116 AC (DCA 16) at paras 1.12(c), 1.12(h) and 4.

117 AC (DCA 16) at para 4.2.

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Properties when she considered the Malaysian Properties as part of the Husband's solely-owned assets and yet ordered that the parties work out the implementation of the division of matrimonial assets between themselves.[118] The Husband argues that the DJ ought to have made a "conclusive finding" in respect of the Malaysian Properties[119] and ought to have drawn an adverse inference against the Wife for her omission to provide an alternative valuation for the Malaysian Properties.[120]

50 The Wife contends that it is inappropriate for an appeal court to deal with the issue of whether the Malaysian Properties ought to be transferred to the Husband's sole name.[121] The Wife argues that parties should first attempt to amicably settle this issue between themselves, as exhorted by the DJ in her NE Judgment below, failing which, parties can write to the DJ for directions on the issue.[122] In addition, the Wife points out that she had accepted the Husband's valuation of the Malaysian Properties, and there is no reason to draw any adverse inference against her for not getting her own valuation done.[123]

Analysis

51 At the hearing on 19 November 2024, the Husband's counsel stated that so long as the Wife's counsel confirms that: (a) the Malaysian Properties are not contested by the Wife; and (b) *per* [36] of the NE Judgment, the Wife agrees to transfer the properties and any sums owing in the light of the final division of

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118 AC (DCA 16) at para 4.3.

119 AC (DCA 16) at para 4.4.

120 AC (DCA 16) at para 4.6.

121 RC (DCA 16) at para 19.

122 RC (DCA 16) at paras 19 and 29.

123 RC (DCA 16) at paras 20–28.

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the matrimonial assets to the Husband, then the Husband no longer takes issue with the DJ's orders concerning the properties. The Wife's counsel duly confirmed that the Wife is not taking the position that she would not transfer the Malaysian Properties to the sole name of the Husband. The Wife would also abide by any order to transfer any surplus of assets in her own name to the Husband in the light of the final division of the assets ordered in the court below.

52 This ground of appeal is therefore no longer a live issue, thus, the Husband's appeal on this issue in DCA 16 is dismissed.

Issue 4: Parties' direct contributions

53 The DJ agreed with the parties and treated this marriage as a dual-income marriage and applied the structured approach to the division of the matrimonial assets set out in *ANJ* (see above at [10]).

Parties' cases

54 The Husband's third ground of appeal in DCA 16 pertains to the DJ's finding that the parties' direct financial contributions to the matrimonial pool of assets (excluding the matrimonial home) were in the ratio of 64.5:35.5 in favour of the Wife.[124] The Husband's position is that the direct contributions ratio to the matrimonial assets (excluding the matrimonial home) should be 90:10 in the Husband's favour.[125] The Husband argues that the DJ failed to consider that the Wife had only worked from 2013 to 2017, with no record of having paid income tax, which meant that the Wife's maximum monthly income could only have

124 AC (DCA 16) at paras 1.12(d) and 5.18.

125 Appellant's Supplementary Case and Further Submissions in DCA 16 dated 22 November 2024 ("AFS (DCA 16)") at para 15.

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been, at the most, $1,666.67.[126] The Husband's primary case is that the Wife earned $1,000.00 monthly from 2013 to 2017.[127] Thus, according to the Husband, the Wife's income throughout the marriage was, mathematically, no more than $60,000.00, and a portion of this income could have been spent on personal expenses.[128] The Husband also notes that the Wife failed to provide evidence of her financial contributions towards the matrimonial pool of assets other than the matrimonial home.[129] The Husband contends that his income was overwhelmingly larger than the Wife's throughout the marriage and thus he made most, if not all, of the financial contributions towards the matrimonial pool of assets (other than the matrimonial home).[130] The Husband also contends that the DJ erred in finding that the parties had pooled their funds together in the early years of their marriage.[131] In rebuttal to the Wife's claim (see below at [56]) that she had loaned $800,000.00 to the Husband, the Husband contends that the Wife's assertion is untrue, that there is no evidence of such a loan, and that this alleged loan was a fiction created by the Wife to explain away moneys that were missing from the matrimonial pool of assets.[132] The Husband further argues, in relation to the alleged insurance payouts received by the Wife from her late husband's death, that there is no evidence of any significant sums left by the time the parties were married, taking into account the fact that the Wife's late husband passed away in 2001 and the parties were married nearly nine years

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126 AC (DCA 16) at paras 5.2–5.8.

127 AFS (DCA 16) at para 11.6.

128 AC (DCA 16) at paras 5.9–5.11 and 5.14.

129 AC (DCA 16) at para 5.12.

130 AC (DCA 16) at paras 5.15–5.18.

131 AC (DCA 16) at paras 5.13 and 6.12.

132 AFS (DCA 16) at para 12.

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later.[133] The Husband further rejects the Wife's assertion that she bailed him out when a bankruptcy application was taken out against him in 2013.[134] The Husband also rejects the Wife's assertion that she had bought a car during the marriage, which the Wife claims demonstrates her financial means. He asserts instead that he had been the one who paid for that car.[135]

55 The Wife argues that the DJ rightly assessed her direct financial contributions to the matrimonial pool of assets. The Wife submits that she came into the marriage with a mortgage-free, fully furnished, and renovated Housing and Development Board ("HDB") flat with a value of $565,000.00.[136] The Wife argues that, when this HDB flat became their matrimonial home, this gave the Husband financial stability, so he was able to focus on growing his businesses.[137] The Wife argues that, sometime in 2013, bankruptcy proceedings were taken out against the Husband for a sum of $82,039.76 and his assets would have been wiped out. The Wife bailed him out and this led to those proceedings being withdrawn.[138] The Wife asserts that she had lent the Husband large sums of moneys, which the Husband had been repaying in the course of the marriage.[139] The Wife contends that, "[f]or all of her life",[140] until March 2018,[141] she

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133 AFS (DCA 16) at para 13.

134 AFS (DCA 16) at paras 22–25.

135 AFS (DCA 16) at paras 26–27.

136 RC (DCA 16) at para 30.

137 RC (DCA 16) at para 30.

138 Respondent's Supplementary Case and Further Submissions in DCA 16 dated 22 November 2024 ("RFS (DCA 16)") at paras 3–4 and 21.

139 RFS (DCA 16) at para 5.

140 RFS (DCA 16) at para 7.

141 RFS (DCA 16) at para 15.

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"operated a canteen stall earning income of less than $20,000 per year".[142] However, the Wife also submits that she could have earned more.[143] The Wife further contends that, with the passing of her late husband, she received insurance payouts in the sum of at least $50,000.00.[144] The Wife also attempts to revive a point argued in the court below, namely, that she had rented out rooms in the matrimonial home and earned income from there.[145] The Wife asserts that she was able to scrimp and save a substantial amount of money from her monthly salary, rental income and insurance payouts.[146] She also submits that she has other savings and other assets left to her by her late husband.[147] The Wife also asserts that her two sons from her previous marriage had their own earning capacity and were contributing towards the family expenses.[148] The Wife argues that the Husband's income drastically fluctuated over the years, his liabilities are said to be "significant", and hence, she submits that he ought not to be seen as a person of means who was consistently earning a significant income.[149]

56 The Wife asserts that the Husband was not of significant financial means from the beginning of the parties' romantic relationship.[150] The Wife asserts that she was the party financially supporting the Husband in the initial years of their

142 RFS (DCA 16) at paras 7 and 13.

143 RFS (DCA 16) at para 7.

144 RFS (DCA 16) at para 8.

145 RFS (DCA 16) at paras 9, 13 and 15.

146 RFS (DCA 16) at para 10.

147 RFS (DCA 16) at para 11.

148 RFS (DCA 16) at para 14.

149 RFS (DCA 16) at para 23.

150 RFS (DCA 16) at paras 17 and 22.

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relationship.[151] The Wife asserts that she provided the initial capital of approximately $800,000.00 to the Husband for his businesses, with the understanding that she will be repaid once the Husband was more established in his business venture.[152] In particular, the Wife focuses on the text messages she had adduced in the court below to show that the Husband acknowledged making debt repayments to the Wife.[153] The Wife further accuses the Husband of destroying "IOU" notes which had recorded these repayment liabilities.[154] The Wife hence argues that the moneys in the bank accounts held in her name and the moneys used to purchase the GE Premierlife Generation policy no. XXXXXX7678, (see S/N 6 at [7] above), totalling $748,507.00, were moneys that ought to be attributed to her as her direct financial contributions.[155]

The law

57 The law on the *ANJ* structured approach is well-established, and the Court of Appeal summarised its elements as follows in *BPC* at [70]:

> 70 It is well established that the structured approach towards the division of matrimonial assets requires the court to (a) first, ascribe a ratio that represents each party's direct contributions relative to those of the other party, having regard to the amount of financial contribution each party has made towards the acquisition or improvement of the matrimonial assets; (b) second, ascribe a second ratio to represent each party's indirect contribution to the well-being of the family relative to that of the other throughout the marriage; and (c) third, using each party's respective direct and indirect percentage contributions, derive each party's average percentage contribution to the family that would form the basis to divide the matrimonial assets …

[151] RFS (DCA 16) at para 17.

[152] RFS (DCA 16) at para 19.

[153] RFS (DCA 16) at paras 19 and 25–26.

[154] RFS (DCA 16) at para 19.

[155] RFS (DCA 16) at paras 25–28.

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58 The *ANJ* structured approach does not deviate from the "broad-brush approach" to dividing matrimonial assets. Thus, the Court of Appeal in *ANJ* at [23] noted as follows:

> … Even in respect of direct financial contributions of the parties, not infrequently, the situation is less than clear. In a case where the documentary evidence falls short of establishing exactly who made what contribution and/or the exact amount of monetary contribution made by each party, the court must make a "rough and ready approximation" of the figures … At the end of the day, the court would have to approach the issue by exercising sound judgment, having regard to the inherent veracity of each party's version of events reflected in their affidavits or testimony as well as the documentary evidence. This is where the "broad brush" comes in.

59 The Appellate Division of the High Court ("Appellate Division") in *WFE v WFF* [2023] 1 SLR 1524 ("*WFE*") at [36] further noted that, in ascertaining the parties' respective direct contributions towards acquiring the matrimonial assets, what is "important is the financial *contributions* that go towards an asset falling within the definition of 'matrimonial asset'" [emphasis in original]. Crucially, while "it is common for the court to total up the values of each party's solely owned assets and credit them as the direct contributions of that party", the correctness of such an approach is still dependent on whether its premise is sound, with the premise being that the solely *owned* assets were solely *acquired* by that party (*WFE* at [37]). The ultimate inquiry still "focuses on the *contributions* towards the acquisition of the matrimonial assets and not on the *ownership* of the assets during the marriage" [emphasis in original]. The Appellate Division noted that "[w]here 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" [emphasis in original]: *WFE* at [37]. The Appellate Division noted that this "is a strictly evidential exercise that is done on a broad-brush basis": *WFE* at [37].

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Analysis

The DJ's approach

60 In the determination of the parties' direct financial contributions the DJ totalled up the respective parties' solely owned assets and credited those values as their direct financial contributions (NE Judgment at [33]). Unfortunately, the parties' solely owned assets, particularly the Wife's assets in her name, may *not have been* solely acquired by her. The DJ therefore respectfully erred in attributing to the Wife a higher direct financial contribution percentage to the non-matrimonial home assets purely because much of these assets were held in her sole name, when it is unlikely that the Wife had the financial capability to solely acquire these assets.

61 The DJ credited the Wife with contributing $748,507.00 to the non-matrimonial home assets, and the Husband's direct financial contributions as $413,000.00 (NE Judgment at [33]). The approach assumes that the assets worth $748,507.00 in the Wife's sole name were solely acquired by her. This may not be correct as the evidence suggests that the parties had pooled their funds together. It is more likely than not that the parties contributed to the acquisition of the assets held in each other's respective sole names.

62 Firstly, I observe that in the matrimonial pool of assets (see at [7] above), the parties have no joint bank account and most of the bank accounts with positive balances are in the Wife's sole name. The Husband has only one bank account with a positive balance of $4,342.37, which is relatively small. The bulk of the assets in the Husband's sole name comprises less-liquid assets such as CPF account balances, real property and his companies. This lends credence to

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the Husband's evidence that he hands his income to the Wife for her to save the income for the family.[156]

63 Secondly, the Wife concedes in these appeals that her income, from operating a primary school canteen stall, was less than $20,000.00 per year.[157] As noted above at [3], the Wife stopped operating the canteen stall in March 2018 after her first stroke in 2017. The Wife's counsel in the court below had even submitted that the Wife had only worked for four years. Hence, the marriage appears to resemble a single-income marriage based on provisions from the Husband.[158] The Wife does not dispute the Husband's personal average monthly income figures, which range from $4,083.00 in 2008[159] to $64,090.25 in 2018.[160] The Wife highlights that the Husband reported personal income losses to IRAS from 2019 to 2021.[161] However, one of the Husband's companies, [Business T], showed significant corporate profits from 2019 to 2022. This was based on the agreed valuation of the said company.[162] The Wife, in her further submissions, reiterates that she had rented out one or more rooms in the matrimonial home and earned income from there.[163] The DJ had made an explicit finding of fact rejecting the Wife's claim that she had been receiving substantial rental income from renting out one of the rooms in the matrimonial

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156 JRA Vol 3B(1) p 19 para 32.

157 RFS (DCA 16) at paras 7 and 13.

158 JRA Vol 1 p 78.

159 RFS (DCA 16) at para 22, referring to JRA Volume 3B(1) p 630.

160 RFS (DCA 16) at para 22, referring to JRA Volume 3B(1) p 352.

161 RFS (DCA 16) at para 22, referring to JRA Volume 3A p 180 and JRA Volume 3B(1) pp 354–355.

162 JRA Vol 3B(3) pp 255–256.

163 RFS (DCA 16) at paras 9, 13 and 15.

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home.[164] The Wife has given no reasons to show that this finding is erroneous. I am not prepared to disturb the DJ's finding that the Wife did not have any income from the rental of the room.

64 The Wife has pointed out (see at [55] above) that she came into this marriage with a mortgage-free, fully furnished, renovated HDB flat with a value of $565,000.00. This may not be accurate as there were still outstanding mortgages to be paid after the parties were married (see at [10] above).[165] Furthermore, the DJ had accorded the Wife 100% of the direct financial contributions to the matrimonial home (see at [12] above). Therefore, the Wife's direct contributions for the HDB flat ought not to be double counted for the rest of the non-matrimonial home assets.

65 The DJ ought not to have held that all the non-matrimonial home assets, namely the bank accounts and the investment sum with the insurance company, held in the Wife's sole name, constituted her direct financial contributions.

Re-quantifying the parties' direct contributions

66 The difficulties that this court faces regarding the determination of the parties' direct contributions are largely due to the fact that both parties were not fully forthcoming with the value of their assets and the quantification of their contributions.

67 I have explained above at [63] that the Husband appears from the evidence to be a person with significant earning capacity, relative to the Wife. However, based on the evidence before me, it is more likely than not that the

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[164] JRA Vol 1 p 40 para 31.

[165] JRA Vol 1 pp 39–40 para 28.

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Wife rendered significant financial contributions to the Husband and this must be taken into account in her favour, notwithstanding that she was a school canteen stall operator earning about $20,000.00 annually.

68 The Wife has long maintained, since her first affidavit of assets and means, that she had loaned moneys to the Husband so that he could purchase lorries for his companies and get his businesses off the ground.[166] The Wife further asserted that she lent moneys to the Husband to sustain his businesses, and she also lent him moneys to rescue him from bankruptcy proceedings which were commenced against him in 2013.[167] The Husband totally denied receiving any loan from the Wife.[168]

69 However, the Wife's assertions are corroborated by the evidence. The Wife has produced a WhatsApp chat conversation between her son from her previous marriage, [Mr G], and the Husband:[169]

Husband:	Monthly pls remember to transfer me.
Husband:	Don't make your debt become my debt
Mr G:	Mummy say deduct from what u owe her
Husband:	What I own [*sic*] her?
Mr G:	mummy ask you to call her
Husband:	You tell her you pay me then I will pay her
Husband:	If not don't say I own [*sic*] her
Husband:	Since last time every month I pay her back 25k
Husband:	Should have clear a lot already

166 JRA Vol 3B(1) pp 481–483 para 24.

167 JRA Vol 3B(1) p 482 para 24(c).

168 JRA Vol 3B(1) p 912 para 85.

169 JRA Vol 3B(2) pp 2237–2238.

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70 It is apparent from this conversation that the Husband acknowledged owing moneys to the Wife, and that he had been making repayments in monthly instalments of $25,000.00. I also note that there is evidence from a cause book search to show that a bankruptcy application was taken out in 2013 against the Husband (in his then-capacity as the sole proprietor of [Business T]).[170] The bankruptcy application was subsequently withdrawn. The Husband's evidence, in response to the Wife's claim of lending the Husband moneys to bail him out, was to blandly deny that the Wife rescued him. He accused the Wife of providing insufficient details, information and documents concerning her having bailed him out.[171] However, what is starkly apparent is the *lack* of a positive explanation of how the Husband managed to get the bankruptcy application withdrawn. I am of the view that, on the balance of probabilities, the Wife did step in and contribute moneys to help the Husband settle the $82,039.76 debt owed to the creditor. This would have directly benefitted the Husband and his then-sole proprietorship, [Business T].

71 The Husband's position in the court below was a complete and bare denial of receiving any loan from the Wife. At the second day of hearings for these appeals, on 26 November 2024, the Husband's counsel also initially focused his submissions on denying that the Wife ever made a loan of $800,000.00 to the Husband, before conceding later that there might have been smaller loans between the Husband and the Wife. The Husband's own message states that "last time every month I pay her back 25k" (see at [69] above) must be taken as evidence that significant sums were repaid to the Wife. It is unclear how much in total was repaid to the Wife and what was the total repayment period. There is also no evidence whether the Husband had fully discharged his

[170] JRA Vol 3B(1) p 638.

[171] JRA Vol 3B(1) p 915 at paras 103–105.

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debts to the Wife. What is clear is that the Husband did borrow from the Wife despite his vehement denial to the contrary.

72 I further note that the Wife has given evidence that she had helped the Husband's businesses by arranging and coordinating significant company events, checking in on the Husband's employees to ensure their welfare, and assisting the Husband when he was caught for employing illegal foreign workers.[172] I am cognisant that the Husband disputes this account and instead asserts that the Wife did not help him in his businesses.[173] I also note that some of the assistance the Wife allegedly rendered in respect of bailing the Husband out when he was caught employing illegal foreign workers happened in 2006 and 2007. This was prior to the marriage. However, the Husband could not dispute that the Wife, at least, had in some way assisted in his businesses. At the hearing of the appeal on 19 November 2024, the Husband's counsel mentioned that the Wife was paid CPF contributions from the Husband's businesses so that the Husband could satisfy certain hiring quotas for foreign workers. On the balance of probabilities, I am satisfied that the Wife had some involvement with the Husband's businesses, and made contributions to it, above and beyond the moneys that the Wife had loaned to the Husband to help inject capital into the businesses and to rescue the Husband from the bankruptcy application that was taken out against him by a creditor in 2013.

73 Applying a broad-brush approach in *ANJ*, *per* the guidance summarised at [58] and [59] above, the appropriate ratio for the parties' direct contributions towards acquiring the non-matrimonial home assets is 50:50. This ratio represents a significant reduction in the Wife's portion of the direct

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[172] JRA Vol 3B(2) p 16 para 21.

[173] JRA Vol 3B(1) p 18 para 27.

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contributions to the non-matrimonial home assets, relative to the DJ's ratio of 64.5:35.5 in favour of the Wife. Unfortunately, the DJ did not explain how she allocated 64.5% to the Wife besides aggregating all the bank accounts in her sole name and the investment sum with the GE Premierlife Generation policy when the Wife was only a school canteen stall operator earning an estimate of about $20,000.00 per year. I have taken into account the Wife's financial capacity, beyond her monthly income as a school canteen stall operator. The Wife had also assisted in the Husband's businesses in some other ways. The Husband argues that the direct contributions ratio to the matrimonial assets (excluding the matrimonial home) should be 90:10 in his favour. This is clearly inequitable and unfair to the Wife. In my view, the DJ's approach of according 64.5% to the Wife in terms of her direct financial contributions is on the high side. Using the broad-brush approach, I am of the view that the fairest division for direct financial contributions of the parties is 50:50.

74 I therefore allow the Husband's appeal in DCA 16 in part on this ground and re-calibrate the parties' direct financial contributions towards acquiring the non-matrimonial home assets in the ratio of 50:50.

Issue 5: Parties' indirect contributions

Parties' cases

75 The Husband's fourth ground of appeal in DCA 16 pertains to the DJ's finding that the parties' indirect contributions to the well-being of the family were in the ratio of 45:55 in favour of the Husband.[174] The Husband argues that, before the Wife's first stroke in 2017, there were domestic helpers who took care of the household. The Husband alleges that he paid for the helpers and gave

[174] AC (DCA 16) at paras 1.12(e) and 6.

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instructions to the helpers.[175] The Husband also argues that even before the Wife's first stroke in 2017, he monitored the Children's academic performance.[176] The Husband submits that the Wife was not a full-time housewife given her employment from 2013 to 2017.[177] The Husband contends that the DJ failed to give sufficient weight to the fact that it was the Husband who had sent the Children to school despite being the breadwinner.[178] Ultimately the Husband contends that prior to the Wife's first stroke in 2017, he saw to the Children's needs. Thus, the assessment of the parties' indirect contributions to the marriage should overwhelmingly be in his favour.[179] He quantifies the indirect contributions ratio, for the period of the parties' marriage prior to the Wife's 2017 stroke, as 75:25 in the Husband's favour.[180] As for the period after the Wife's 2017 stroke, the Husband argues that his indirect contributions to the marriage are significant as the Wife was physically incapable of rendering any indirect contributions after that stroke.[181] The Husband concedes that the Wife's adult children from her previous marriage assisted in caring for the Children.[182] While initially taking the position that the parties' indirect contributions after the Wife's 2017 stroke should be 100:0 in his favour,[183] he later quantifies the indirect contributions ratio as 87.5:12.5 in his favour.[184] Therefore, the Husband

175 AC (DCA 16) at paras 6.2–6.4; AFS (DCA 16) at para 16.1.

176 AC (DCA 16) at paras 6.5–6.8; AFS (DCA 16) at para 16.3.

177 AC (DCA 16) at paras 6.9–6.10.

178 AC (DCA 16) at paras 6.11

179 AC (DCA 16) at paras 6.14–6.15.

180 AFS (DCA 16) at para 16.7.

181 AC (DCA 16) at paras 6.16–6.18; AFS (DCA 16) at para 17.

182 AFS (DCA 16) at para 17.8.

183 AC (DCA 16) at para 16.8.

184 AFS (DCA 16) at para 17.11.

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contends that the overall ratio for the indirect contributions for the period before and after the Wife's stroke should be 81.25:18.75 in his favour.[185]

76 The Wife argues that the DJ rightly assessed her indirect contributions to the matrimonial pool of assets. The Wife repeats her claim that the HDB flat that she brought to the marriage gave the Husband financial stability, so he was able to focus on his businesses.[186] The Wife submits that it is fully within the court's discretion to attribute a value to the contributions and efforts she made as a wife and mother.[187] The Wife further refers to the Custody Evaluation Report ordered by the DJ.[188] She emphasises that the Custody Evaluation Report deemed her to be the more suitable parent who should be vested with care and control of the Children, despite her condition following her strokes.[189] The Wife argues that this shows that she provided more indirect contributions to the marriage, especially with respect to the Children, for which she was the primary caretaker.[190] The Wife contends that, whilst she may have had to rely on other support units, such as domestic helpers or her children from her previous marriage, in her care for the Children, her efforts should not be discounted as she guided and influenced those support units.[191] The Wife alleges that the Husband left her to take on the primary responsibility of caring for the Children throughout the marriage and did not involve himself with the Children's lives

[185] AFS (DCA 16) at paras 18–20.

[186] RC (DCA 16) at para 33.

[187] RC (DCA 16) at para 33.

[188] RC (DCA 16) at para 34.

[189] RC (DCA 16) at para 34.

[190] RC (DCA 16) at para 34.

[191] RC (DCA 16) at paras 35–37.

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in a meaningful manner.[192] The Wife submits that the Husband did not appeal against the DJ's decision to award care and control of the Children to the Wife in DCA 16. Thus, the Husband accepted the findings of the Custody Evaluation Report and the acceptance thereof by the DJ.[193]

Analysis

77 I decline to interfere with the DJ's assessment of the parties' indirect contributions to the marriage as it is fair.

78 The Court of Appeal in *ANJ* at [24] made some remarks regarding indirect contributions by the wife in a marriage: "even in a home where both the spouses are working full time, in the absence of concrete evidence it is more likely than not that ordinarily the wife will be the party who renders greater indirect contributions", and "[w]hat values to attribute to each spouse in relation to indirect contributions would be a matter of assessment for the court and in that regard broad strokes would have to be the order of the day".

79 I agree with the DJ's observation that the parties have sought to "downplay the other party's contributions towards the marriage and exaggerate their own" (NE Judgment at [31]). In my view the Husband's submission, as summarised at [75] above, is an exaggeration of his role in the marriage whilst severely downplaying the Wife's contributions.

80 The Husband gave evidence that, throughout the marriage, he was the "main / substantial breadwinner of the family"[194] and that his "days [were] filled

192 RC (DCA 16) at para 38.

193 RC (DCA 16) at para 38.

194 JRA Vol 3B(1) p 17 para 23.

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with work, requiring [him] to even travel overseas to meet with [his] Malaysian suppliers on weekends to inspect the quality of their goods before [he] purchase[d] and import[ed] them".[195] The Husband's own case in the court below was that the Wife only started work in 2013.[196] This was three to four years after the parties were married on 12 December 2009 (see above at [2]). Of the two Children to this marriage, Y was born in 2010, and Z was born in 2011.[197] The logical inference is that, when the Children were young, the Wife had more time to spend at home to care for the Children and take care of the household. Even as the Children grew older, and when the Wife started work in 2013, she would still have had more time to care for the Children relative to the Husband. And her efforts in this regard must have been significant, given the Children's unique needs. As noted above at [2], Y has been diagnosed with autism and attends a specialised school and Z has learning difficulties. I recognise that the Wife had the assistance of domestic helpers, which is a factor that the precedents have considered when calibrating indirect contributions (see, *eg*, *ANJ* at [27(c)]). However, the precedents have also shown that the provision of assistance by domestic helpers does not erase the indirect contributions of a caregiving wife: *WSY v WSX and another appeal* [2024] SGHCF 21 at [65]. The Court of Appeal observed in *Pang Rosaline v Chan Kong Chin* [2009] 4 SLR(R) 935 at [20] ("*Rosaline Pang*") that the wife's indirect contributions were significant, notwithstanding that the household enjoyed the assistance of domestic helpers, for "the wife had to, *inter alia*, train, manage and supervise the execution of duties assigned to the maids", and she "took on a managerial role in ensuring the smooth running of the household (with all the

195 JRA Vol 3B(1) p 17 para 24.

196 JRA Vol 3C p 313 para 8.1.

197 JRA Vol 2 p 27 para 4.

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accompanying logistical requirements)", whilst she also "personally looked after the needs of the two children".

81 The significant caregiving role played by the Wife is reinforced by the Custody Evaluation Report ordered by the DJ. The Custody Evaluation Report supported the Wife having care and control of the Children, which affirms the Wife's case that she has been an effective primary caregiver for the Children.

82 Even after the Wife became impaired due to her two strokes, her indirect contributions did not diminish significantly. The Husband conceded that the Wife has overseen and instructed her adult children from her previous marriage in taking care of the Children.[198] Such a superintending role in ensuring the smooth running of the household "is at least as essential and important as the direct performance of the chores itself": *Rosaline Pang* at [20].

83 Ultimately, this was a marriage where the Wife had rendered significant indirect contributions in the earlier years of the marriage taking care of the two Children who have unique needs. However, the Wife's stroke left her physically incapacitated in the later years of the marriage (see above at [3]), which left her reliant on other sources of support around her, such as domestic helpers, her adult children from her previous marriage, and, of course, her Husband. In this regard, I note that the Wife had agreed in the court below that the Husband was contributing to her expenses.[199] I also have no doubt that the Husband is *not* an inactive parent. For instance, he had monitored the Children's academic

[198] AFS (DCA 16) at para 17.8.

[199] JRA Vol 3C p 233 at para 95.

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performance[200] and he had sent them to school.[201] However, such contributions cannot be seen to have been done to the *exclusion* of the Wife. The courts have indeed given credit to economically active spouses who are active contributors at home in a manner that does not overshadow the indirect contributions of the caregiving spouse: *UBM v UBN* [2017] 4 SLR 921 at [18]–[19]. It all depends on the facts of each case. There is thus no reason for me to disturb the DJ's decision to calibrate the indirect contributions of the parties at 45:55 in favour of the Husband.

84 I therefore dismiss the Husband's ground of appeal in DCA 16 against the DJ's calibration of the parties' indirect contributions.

Issue 6: Weight to be given to direct and indirect contributions

Parties' cases

85 The Husband's fifth ground of appeal in DCA 16 pertains to the DJ's decision to give equal weight to the parties' direct contributions and indirect contributions to the marriage.[202] The Husband argues that, as this was a marriage where salaried domestic helpers were involved in making indirect contributions, more weight should have been attributed to the parties' direct contributions compared to their indirect contributions.[203]

86 The Wife submits that there is no basis for the Husband to argue that direct contributions ought to be accorded greater weight compared to indirect

200 JRA Vol 3B(2) p 2283 paras 64–65.

201 JRA Vol 3B(1) p 489.

202 AC (DCA 16) at paras 1.12(f) and 7.

203 AC (DCA 16) at paras 7.3–7.5.

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contributions.[204] The Wife contends that the parties' marriage is neither a short marriage nor a childless marriage.[205] In addition, the Children required particular attention as one has autism and the other has learning difficulties.[206] Thus, the DJ had been correct in adopting the typical approach of attributing equal weight to direct and indirect contributions.[207]

The law

87 The Court of Appeal elaborated on the circumstances in which the "average ratio" could be shifted to attribute greater weight to spouses' direct or indirect contributions in *ANJ* at [27], as follows:

> 27 The circumstances that could shift the "average ratio" in favour of one party are diverse, and in our judgment, there are at least three (non-exhaustive) broad categories of factors that should be considered in attributing the appropriate weight to the parties' collective direct contributions as against their indirect contributions:
>
> > (a) The length of the marriage. Indirect contributions in general tend to feature more prominently in long marriages (*Tan Hwee Lee* ([18] *supra*) at [85]). Conversely, indirect contributions usually play a *de minimis* role in short, childless marriages (*Ong Boon Huat Samuel v Chan Mei Lan Kristine* [2007] 2 SLR(R) 729 at [28]).
> >
> > (b) The size of the matrimonial assets and its constituents. If the pool of assets available for division is extraordinarily large and all of that was accrued by one party's exceptional efforts, direct contributions are likely to command greater weight as against indirect contributions (see *Yeo Chong Lin v Tay Ang Choo Nancy* [2011] 2 SLR 1157 ("*Yeo Chong Lin*")).

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204 RC (DCA 16) at para 40.

205 RC (DCA 16) at para 42.

206 RC (DCA 16) at para 42.

207 RC (DCA 16) at para 42.

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> (c) The extent and nature of indirect contributions made. Not all indirect contributions carry equal weight. For instance, the engagement of a domestic helper naturally reduces the burden of homemaking and caregiving responsibilities undertaken by the parties, and to that extent, the weight accorded to the parties' collective indirect contributions in the homemaking and caregiving aspects may have to be correspondingly reduced. The courts also tend to give weighty consideration to homemakers who have painstakingly raised children to adulthood, especially where such efforts have entailed significant career sacrifices on their part.

88 The Appellate Division in *VOD v VOC and another appeal* [2022] SGHC(A) 6 ("*VOD*") at [114]–[115] noted that these factors to be considered in attributing the appropriate weight to the parties' collective direct contributions as against their indirect contributions, such as the length of marriage, the extent of a husband's involvement with the family, and the assistance of a domestic helper, may also be taken into account elsewhere in the analysis, when the indirect contributions of the parties are considered. If these factors are considered elsewhere, the same factors need not be taken into account a second time in considering whether to give more weight to either the direct contributions or the indirect contributions in arriving at the average ratio for division.

Analysis

89 I decline to disturb the DJ's decision to accord equal weight to the parties' direct and indirect contributions.

90 Turning first to the non-exhaustive factors set out by the Court of Appeal at [27] of *ANJ* which may justify shifting the "average ratio" in favour of one party or the other, I am satisfied that none of these factors are engaged in this case. The marriage in this case lasted approximately 11 years. This was a mid-

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length marriage: *BOR v BOS and another appeal* [2018] SGCA 78 ("*BOR*") at [112]. There are two Children in this marriage. The size of the matrimonial pool of assets is not extraordinarily large. Applying the Appellate Division's guidance in *VOD* at [114]–[115], I have already considered such factors as the engagement of domestic helpers and the Wife's primary caregiving role for the Children, when calibrating the ratio of parties' indirect contributions at [80]–[83] above. Accordingly, I do not take these factors into account a second time in considering whether to give more weight to the parties' collective direct contributions or their collective indirect contributions.

91 I recognise that the factors set out at [27] of *ANJ* are non-exhaustive, but the Husband has simply not submitted on any other factor which may be relevant to shift the average ratio in his favour. I therefore dismiss this aspect of the Husband's appeal in DCA 16, on the issue of the relative weight to be given to the parties' direct and indirect contributions.

Issue 7: Rounding the decimal point figures

Parties' cases

92 The Husband's sixth ground of appeal in DCA 16 pertains to the DJ's decision, when rounding the parties' average ratio of contributions to a whole number, in favour of the Wife instead of the Husband.[208] The Husband argues that the DJ did not consider whether the contributions should have been rounded in the Husband's favour instead.[209]

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[208] AC (DCA 16) at paras 1.12(g) and 8.

[209] AC (DCA 16) at para 8.2.

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93 The Wife argues that there is no basis for the Husband to complain about the DJ's rounding of the decimial point figures of the parties' average ratio of their contributions.[210] The Wife submits that a rounding of 0.5% is a *de minimis* issue and ought not to be the subject of an appeal.[211]

Analysis

94 The Husband's complaint against the DJ's exercise in rounding the initial average ratio of 54.75:45.25 to 55:45 (NE Judgment at [33]) is without merit. As a preliminary and elementary point, this method of rounding off numbers accord with basic principles of arithmetic. A decimal point figure of 0.75, when rounded to the nearest whole number, is one. A decimal point figure of 0.25, when rounded to the nearest whole number, is zero.

95 There is no proscription against the rounding of decimal point figures when calibrating the division of the matrimonial pool of assets. Time and time again, the courts have stressed that the courts' powers of division under s 112 of the Women's Charter 1961 (2020 Rev Ed) ("Women's Charter") should be exercised "in broad strokes" (*ANJ* at [17] and [30]). A broad-brush approach means that the court, in exercising its discretion, should not embark on a rigid mathematical exercise. Thus, the Court of Appeal, in hearing matrimonial cases, has routinely rounded numbers: see, *eg*, *Yeo Gim Tong Michael v Tianzon Lolita* [1996] 1 SLR(R) 633 at [23] and *Tan Bee Giok v Loh Kum Yong* [1996] 3 SLR(R) 605 at [43]. In any case, as a result of the recalculation of the division of the matrimonial pool of assets (see [119] and [120] below), this point on rounding is rendered moot.

210 RC (DCA 16) at para 43.

211 RC (DCA 16) at para 43–45.

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96 I thus dismiss the Husband's ground of appeal in DCA 16 on the issue of rounding the decimal point figures.

Issue 8: [Business L]

Parties' cases

Wife's case

97 The Wife argues in her appeal in DCA 17 that the Husband has managed to siphon a sizable portion of what ought to have been his income generated from [Business M] and [Business T] to [Business L].[212] The Wife clarifies that her position in the appeal is *not* that the valuation of the Husband's assets should have to be re-litigated.[213] Instead, the Wife vehemently urges that an adverse inference ought to be drawn against the Husband, with the ratio for the division of matrimonial assets being adjusted upwards in favour of the Wife using the uplift method.[214]

98 The Wife asserts that [Business L] is the Husband's "alter ego", such that it is a matrimonial asset that ought to be divided in a "just and equitable" manner.[215] The Wife contends that [Business L] is a sham or façade set up by the Husband to conceal matrimonial assets and/or that the Husband is the true controller of [Business L] such that [Business L] is the Husband's alter ego.[216] The Wife asserts that the Husband has been channelling profits to [Business L],

[212] AC (DCA 17) at para 11.

[213] AC (DCA 17) at para 36.

[214] AC (DCA 17) at para 10.

[215] AC (DCA 17) at para 14.

[216] AC (DCA 17) at para 33.

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whilst writing off expenses *via* the companies in his name, *viz*, [Business T] and [Business M].[217]

99 The Wife asserts that the circumstances surrounding [Business L] are suspicious. In summarising these arguments, I am careful to keep in mind that SUM 210 has been dismissed, and the arguments to be considered for the appeal ought to be considered on the basis of evidence which has already been adduced in the court below.

(a) The Wife first notes that [Business L's] sole director and shareholder, Ms X, is allegedly the Husband's current romantic partner, who is said to have had a child with the Husband.[218] The Wife argues that Ms X went from being the Husband's girlfriend to having a child with the Husband. Ms X was the Husband's secretary and became the sole director of [Business L] one month after the Wife's filing of the writ for divorce.[219]

(b) The Wife points out that Ms X was an employee of the Husband's companies, [Business T] and [Business M], and that Ms X and the Husband work at the same premises.[220]

(c) The Wife argues that, as Ms X was working as a secretary in [Business T] and [Business M], prior to becoming the sole director of [Business L],[221] it is not likely for her to have accumulated much paid-

217 AC (DCA 17) at paras 15 and 26.

218 AC (DCA 17) at para 34(d)(i).

219 AC (DCA 17) at paras 21–22.

220 AC (DCA 17) at para 22.

221 AC (DCA 17) at para 34(d)(i).

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up capital and the inference ought to be that the Husband bankrolled [Business L] with a paid-up capital of $50,000.00 when it was set up in September 2020.[222]

(d) The Wife points out that [Business L] was registered on 12 September 2020, merely a month after the writ of divorce was filed by the Wife.[223] This was during the COVID-19 period and, thus, it is not likely for there to have been a *bona fide* commercial reason for setting up [Business L].[224]

(e) The Wife observes that [Business T] and [Business L] share the same registered address,[225] and both entities offer similar business services relating to the transportation of goods.[226] The Wife asserts that it is not likely for the Husband to have a *bona fide* reason for allowing what appears to be a competitor firm to operate from the same office.[227]

(f) The Wife further notes that [Business L] has, as part of its name, the initials of the Husband's name.[228]

(g) The Wife also notes that [Business T] and [Business L] both employ the same person as secretary.[229]

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222 AC (DCA 17) at para 24.

223 AC (DCA 17) at para 34(a).

224 AC (DCA 17) at para 24.

225 AC (DCA 17) at paras 23 and 34(c).

226 AC (DCA 17) at paras 24 and 34(b).

227 AC (DCA 17) at para 24.

228 AC (DCA 17) at paras 25 and 34(b).

229 AC (DCA 17) at para 34(d)(ii).

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(h) The Wife further complains that [Business L] operates using the Husband's personal handphone number.[230] The Wife asserts that if a person were to call the number to engage the services of [Business T], he would also be speaking to and dealing with the very same person providing services as [Business L].[231]

100 The Wife also complains that the Husband commissioned a valuation of [Business T] and [Business M] dated 23 November 2020, within two months of the filing of the writ of divorce by the Wife.[232] According to the Wife, this was an attempt by the Husband to get a low valuation for the companies.[233] In this regard, the Wife further complains that the Husband had refused to consent to a joint valuation of the companies *via* the Panel of Financial Advisers of the Family Justice Courts.[234]

101 In addition to the sham/façade argument (see above at [98]–[99]), the Wife also contends that the Husband drew no distinction between himself and [Business L] as he allowed [Business L] to operate out of the same premises as his own company and to use his personal contact number.[235] The Wife contends that the Husband used his personal PayNow account and/or personal bank account to hold moneys for [Business L].[236] Thus, the Wife argues that the

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230 AC (DCA 17) at paras 34(e) and 52.

231 AC (DCA 17) at para 52; AS (SUM 210) at para 27.

232 AC (DCA 17) at paras 27 and 41.

233 AC (DCA 17) at paras 27 and 41.

234 AC (DCA 17) at paras 28–30.

235 AC (DCA 17) at para 62.

236 AC (DCA 17) at paras 62–65.

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Husband treats [Business L's] moneys as his own and he is the true controller and alter ego of [Business L].[237]

102 The Wife submits that the Husband's conduct in relation to [Business L] entitles the court to draw an adverse inference against the Husband.[238] The Wife asserts that the businesses of [Business L] and that of the Husband's companies, [Business M] and [Business T], overlap. Thus, the profits and earnings of these entities were commingled.[239] In this regard, and contrary to the Husband's assertion (see below at [104]) that the Wife's position in the proceedings below was that she would not be pursuing the matter of [Business L], the Wife submits that she has always maintained her position throughout the proceedings that an adverse inference ought to be drawn against the Husband as he had not been forthcoming in his disclosures concerning [Business L].[240]

103 The Wife submits that the Husband, who had failed to fulfil his duty of full and frank disclosure, should not be allowed to get away with a ploy to park his assets with his romantic partner while denying the incapacitated Wife her entitlement to share in the matrimonial assets held under [Business L].[241]

Husband's case

104 The Husband submits that the DJ was correct in not including [Business L] into the matrimonial pool of assets.[242] The Husband argues that the DJ was

237 AC (DCA 17) at paras 65–67; AS (SUM 210) at paras 47–49.

238 AC (DCA 17) at para 70.

239 AC (DCA 17) at paras 73–75; AS (SUM 210) at para 12.

240 AS (SUM 210) at paras 11–12.

241 AS (SUM 210) at para 43.

242 RC (DCA 17) at paras 4.1 and 4.2(d).

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right in taking into account the Wife's alleged position below that she would not be pursuing the matter of [Business L].[243] The Husband submits that the Wife had expressly admitted that she could have taken out a third-party suit and sought documents in respect of [Business L], but had chosen not to do so.[244] The Husband also argues that there was no evidence of siphoning of business from the Husband's existing businesses to [Business L], despite the Husband having disclosed the businesses' financial documents.[245] The Husband further argues that the DJ was right in giving full consideration to the Wife's earlier decision not to join any co-defendant (*ie*, Ms X) to the divorce proceedings.[246]

105 Moreover, the Husband submits that even if the fresh evidence in SUM 210 is admitted for the appeal in DCA 17, the court should not add [Business L] into the matrimonial pool of assets.[247] The Husband asserts that the Wife's appeal is substantially based on evidence from the bar, unsupported by sworn or affirmed evidence.[248] The Husband argues that even if the fresh evidence is admitted, the Wife remains unable to show any loss from the matrimonial pool of assets, and thus no wrongful dissipation has been proved.[249] Even if there is dissipation or even if [Business L] ought to be part of the matrimonial pool of assets, the Wife has been unable to provide any relevant quantum that should be "added back" into the matrimonial pool.[250] The Husband

243 RC (DCA 17) at para 4.2(a); RS (SUM 210) at para 27.

244 RS (SUM 210) at para 28.

245 RC (DCA 17) at para 4.2(b); RS (SUM 210) at paras 29 and 45.

246 RC (DCA 17) at para 4.2(c).

247 RC (DCA 17) at para 6.1.

248 RC (DCA 17) at para 6.2(a).

249 RC (DCA 17) at para 6.2(b).

250 RC (DCA 17) at paras 6.2(c), 6.2(e) and 6.2(g); RS (SUM 210) at paras 39–42.

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also contends that there are insufficient grounds to draw an adverse inference against him as the Wife could have taken out a third-party application for discovery to seek any documents of [Business L] that the Wife wishes for the court to consider. The Husband was neither the owner of nor an officer in [Business L] and had no possession, custody or power over those documents. Hence, it cannot be said that the Husband concealed any material documents *vis-à-vis* [Business L].[251] The Husband further submits that the lifting of the corporate veil doctrine is inapplicable in this case as the Husband is not the owner of [Business L].[252] The Husband argues that the lifting of the corporate veil doctrine is meant to allow for the treatment of the rights or liabilities of a corporation as the rights or liabilities of its shareholders, and that this doctrine has no place in matrimonial proceedings for the purpose of expanding the matrimonial pool of assets.[253]

The law

106 It is apposite to start by considering the circumstances in which assets over which a third party has legal title ought to be included in the matrimonial pool of assets for division under s 112 of the Women's Charter. The Court of Appeal considered this issue in *UDA* at [56]–[57], as follows:

> 56 If the property is legally owned by the third party, then the following options will be available to the court and the spouses.
>
>> (a) First, the spouse who claims the property to be a matrimonial asset may obtain legally binding confirmation from the third party that this is so and an undertaking that the third party would respect and

[251] RC (DCA 17) at para 6.2(d); AFS (DCA 16) at paras 36–47.

[252] RC (DCA 17) at para 6.2(f).

[253] AFS (DCA 16) at paras 29–30.

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> enforce any order that the court may make relating to the beneficial interests in the property.
>
> (b) If this is contested, either that spouse or the other who is asserting that the property belongs beneficially to the third party would have to start a separate legal action to have the rights in the property finally determined, *vis-à-vis* the third party, in which case the s 112 proceedings would have to be stayed until the rights are determined. This would be Option 2.
>
> (c) The third possibility would be for the spouse to drop his or her claim that the property is a matrimonial asset and allow the s 112 proceedings to continue without it.
>
> (d) Alternatively, that spouse may ask the court to determine whether the asset is a matrimonial asset without involving the third party's participation at all or making an order directly affecting the property. This is Option 1.
>
> 57 In respect of [56(d)] above, the family justice court should only take Option 1 if both spouses agree to it, as this course could result in the disputed asset being treated as a matrimonial asset and adjustments being made in the division of other assets to account for its value when in separate proceedings later it may be determined that the third party was both the legal and the beneficial owner of the property and neither spouse had any interest in it at all. Thus, the result of taking Option 1 may be to prejudice the spouse who has had to account to the other for the value of an item of property which turns out not to be a matrimonial asset. By the time of the separate action the s 112 proceedings may have completed and no adjustments may be possible to reflect the decision made in the third party's separate proceedings. If both spouses do not agree to Option 1 in this situation, then directions would have to be given regarding the taking of separate proceedings against the third party and Option 2 would come into play. We should add that Option 1 would not be viable if the disputed asset is the main or only substantial asset available for division.

107 In this regard, it ought to be clarified that the Wife's arguments on the lifting of the corporate veil are inapposite in the context of a division of matrimonial assets. This was made clear by the Court of Appeal in *NK v NL* [2007] 3 SLR(R) 743 at [53], where the court noted that the core inquiry in proceedings on the division of matrimonial assets is one of "uncovering all the

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matrimonial assets available so as to achieve a just and equitable division", and it is *not* about treating companies and their alleged controllers as one. Thus, in the present case, the central inquiry is whether the shares of [Business L], which are legally held by Ms X, ought to be treated as, in truth, being held by Ms X on trust for the Husband, with the Husband being the true beneficial owner of [Business L].

108 The Appellate Division in *WRX v WRY and another matter* [2024] 1 SLR 851 ("*WRX*") recently recapitulated the law on the drawing of an adverse inference in the context of dividing matrimonial assets. The drawing of an adverse inference is a response to a breach of the duty of full and frank disclosure by parties of information about the pool of matrimonial assets to be divided: *WRX* at [34]–[35]. The drawing of an adverse inference, followed by giving effect to the adverse inference that is drawn, enables the court to counter the effects of a non-disclosure of assets which diminishes the value of the matrimonial pool: *WRX* at [36]. As noted by the Court of Appeal in *UZN v UZM* [2021] 1 SLR 426 ("*UZN*") at [35], giving effect to the drawing of an adverse inference enables the court to better reflect the true extent of the matrimonial pool of assets.

109 *Per* the Court of Appeal in *BPC* at [60], the court may draw an adverse inference against a party who fails to comply with his or her duty of full and frank disclosure of the matrimonial assets, provided that: (a) there is a substratum of evidence that establishes a *prima facie* case against the person in relation to whom the inference is to be drawn; and (b) that person must have had some particular access to the information he or she is said to be hiding. In relation to (a), the Court of Appeal in *BOR* at [75] explained that there must be some evidence which suggests on its face that the party in question has deliberately sought to conceal or deplete some assets which would otherwise

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have been available for division. There are generally two approaches the courts have used to give effect to an adverse inference against a non-disclosing party: (i) the court may make a finding on the value of the undisclosed assets based on the available evidence and, subject to the party dissatisfied with the attributed value showing that that value is unreasonable, include that value into the matrimonial pool of assets for division (the "Quantification Approach"); and/or (ii) the court may order a higher proportion of the known assets to be given to the other party (the "Uplift Approach"): *UZN* at [28]. These two approaches may be employed cumulatively: *WRX* at [41].

Analysis

110 In my view, there are insufficient grounds for drawing an adverse inference against the Husband that [Business L] represents value which forms part of the matrimonial pool of assets.

111 As a preliminary point, contrary to the Husband's assertion that the Wife had agreed in the court below not to pursue her claim for [Business L] to be added back into the matrimonial pool of assets,[254] I am satisfied from a perusal of the DJ's Notes of Evidence that that was not the position taken by the Wife below. Instead, the Wife's counsel was recorded as submitting before the DJ on 10 October 2023 as follows:[255]

> [Wife's Counsel]: Whether the Court wants to draw the linkage. But the responses provide one simple fact that Ms [X] is receiving funds to his number, which he says it is my office account. Do not use my personal and office account interchangeably. We made an inference on that and hence

[254] RC (DCA 17) at para 1.14(c).

[255] JRA Vol 1 p 76.

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> filed that. We will not be pursuing that [Business L], because we have Court's guidance. It is only in these proceedings, to make a submission on adverse inference.

112 In my view, the most reasonable interpretation to be given to the Wife's counsel's submission is that the Wife intended to make submissions on drawing an adverse inference against the Husband for the alleged non-disclosure of material information surrounding [Business L]. This is the very same position that the Wife is taking now in her appeal in DCA 17.

113 I shall now deal with the substance of the analysis. As explained at [108] above, the drawing of an adverse inference is a response to a breach of the duty of full and frank disclosure by parties of information about the matrimonial pool of assets to be divided. The drawing of an adverse inference enables the court to better reflect the true extent of the matrimonial pool of assets. This raises a pertinent issue: under what circumstances should [Business L] be included in the matrimonial pool of assets? As flagged at [38] above, the Wife is unable to show that the Husband had diverted his assets to [Business L] or that the Husband had used [Business L] to generate income for himself *prior to* 4 March 2021 (the date of the IJ). 4 March 2021 is the presumptive cutoff date because income generated by the Husband *after* the IJ date is generally not to be held to be matrimonial asset to be distributed between the parties: *AJR* at [4] and *BPC* at [26], [29]–[31], [36]–[37] and [39]–[41].

114 The problem with the Wife's case below and in her appeal in DCA 17, is that she is unable to point to any substratum of evidence that establishes a *prima facie* case that the Husband had either (a) siphoned assets from his existing accounts or businesses and placed these assets in [Business L]; or

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(b) generated income through [Business L] between [Business L]'s inception and the IJ date.

115 The "suspicious" circumstances highlighted by the Wife at [99] above does not necessarily point to the Husband beneficially owning [Business L] and running it behind the scenes. These circumstances are equally consistent with [Business L] genuinely being owned and operated by Ms X. The Wife's own case is that Ms X was an employee of [Business T] and [Business M].[256] It is not unreasonable that Ms X could have acquired experience and knowledge relevant to running a logistics and transport business whilst working in [Business T] and [Business M]. It is also not unreasonable that Ms X could have funded the $50,000.00 paid-up capital from her own funds or from a loan. $50,000.00 is not an extremely large sum. The Wife gave evidence that [Mr G] (her son from her previous marriage) worked at [Business T] and, after he resigned, he managed to run no less than three businesses, including a delivery services business with a share capital of $30,000.00.[257] To the extent that [Mr G] might have the experience, knowledge and access to capital necessary for running businesses, the same could well be true of Ms X. The key point here is that the circumstances raised by the Wife at [99] are equally consistent with the Husband's position that Ms X genuinely owned and operated [Business L]. If the Husband was willing to offer his skills, knowledge and connections to help Ms X in her business (which appears likely if it is indeed true that they are lovers who even had a child together, as the Wife alleges), that does not render Ms X's assets matrimonial assets to be divided between the Wife and the Husband. It is only if the Husband had *transferred* assets from the matrimonial pool of assets to [Business L], or if he had earned an income from [Business L] before the IJ

256 AC (DCA 17) at para 22.

257 JRA Vol 3B(3) pp 18–19, paras 21–22 and p 24 para 45.

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date – which would be the case if, *eg*, Ms X were a mere nominal shareholder with the Husband retaining the beneficial ownership of [Business L] throughout – that the value of [Business L]'s shares and the assets held thereunder ought to be included in the matrimonial pool of assets.

116 Moreover, the Wife's argument that the Husband has been channelling profits to [Business L] whilst writing off expenses *via* [Business T] and [Business M] is also partly contradicted by the valuation reports of [Business T] and [Business M] tendered in the court below. In the valuation reports dated 23 November 2020, [Business T] was valued at $206,855.00[258] and [Business M] was valued at $70,131.00.[259] Subsequently, further valuation reports closer to the hearing date of the ancillary matters were obtained, dated 15 September 2023, showing that [Business T] was valued at $425,416.00[260] and [Business M] was valued at $138,569.00.[261] These increases in value are *prima facie* inconsistent with the Wife's narrative that [Business T] and [Business M] were being used to bear costs/expenses, whilst their rightful profits were being channelled to [Business L].

117 Specifically in relation to the Wife's contention that the Husband had used his personal PayNow account and/or personal bank accounts in connection with [Business L's] business, the mere fact of such usage of accounts says nothing about the assets that ought to be included in the matrimonial pool of assets. I note that the Wife has not been able to flag any suspicious transfers of moneys from the Husband's PayNow account or bank accounts to [Business L]

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258 JRA Vol 3B(2) p 248.

259 JRA Vol 3B(2) p 227.

260 JRA Vol 3B(3) p 266.

261 JRA Vol 3B(3) p 302.

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or other unknown parties. If, for instance, the Wife had been able to show unexplained withdrawals of moneys from the Husband's accounts around the time [Business L] was incorporated, it may be possible to draw an adverse inference against the Husband. In that event, the court could hold that those withdrawals were, in truth, meant to inject paid-up capital into [Business L] or used to purchase business assets for [Business L] when the moneys should be in the matrimonial pool of assets. Indeed, in *Chan Tin Sun v Fong Quay Sim* [2015] 2 SLR 195 at [59]–[67], the Court of Appeal drew an adverse inference against the husband for withdrawing $832,737.50 from a bank account, of which $645,960.03 remained unaccounted for. The Court of Appeal added this sum back into the matrimonial pool to give effect to the adverse inference drawn against the husband. However, in the present case, the Wife was not able to even point to any unexplained withdrawals on the part of the Husband. There is thus no substratum of evidence that establishes a *prima facie* case against the Husband, and insufficient material to draw an adverse inference against him.

118 I am thus in agreement with the DJ that the Wife's suggestion that [Business L] was being used to keep the matrimonial moneys out of reach of the Wife is based merely on the Wife's suspicion (NE Judgment at [24]). There is insufficient evidence to even draw an adverse inference against the Husband. I therefore dismiss DCA 17.

Conclusion

119 Given that I have allowed the Husband's appeal in DCA 16 in part, in respect of the issue of the parties' direct contributions, I take reference from the DJ's table, as reproduced at [12] above, and recalculate the division of the matrimonial assets (excluding the matrimonial home, *per* the NE Judgment at [33]), as follows:

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The rest of the matrimonial assets (excluding the matrimonial home valued at $565,000.00)		
Parties' contributions	**Wife**	**Husband**
Total direct financial contributions	$1,161,507.00	
Direct financial contributions	50%	50%
Indirect contributions	45%	55%
Average	**47.5**	**52.5**
Shares of the non-matrimonial home assets	**$551,715.83 (rounded-up from $551,715.825)**	**$609,791.18 (rounded-up from $609,791.175)**

120 The DJ found, at [34] of the NE Judgment, that the Wife's share of the matrimonial home amounted to $409,625.00 and the Husband's share was $155,375.00. There is no appeal against these findings. Adding these figures to the recalculated shares of the non-matrimonial home assets, with a *de minimis* rounding down of one cent, the Wife's total share of the matrimonial assets amounts to $961,340.82 and the Husband's amounts to $765,166.18.

121 Parties ought to attempt to amicably work out a method of dividing the matrimonial assets to give effect to the division stated at [120] above, bearing in mind that the values attributed to each asset by the DJ and as clearly stated in the NE Judgment below have not been appealed against, and therefore stand. I note, *per* [37] of the NE Judgment, that the DJ had encouraged the parties to

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work out the implementation of the division orders between themselves, failing which, they may write to the court for the necessary directions and orders to be made. If the parties are unable to work out the implementation of the orders themselves, they may write to the lower court for further directions and orders.

122 The rest of the Husband's appeal in DCA 16 is dismissed. The Wife's appeal in DCA 17 is also dismissed.

123 Turning to costs, the Husband prays for costs in his favour for DCA 16 and DCA 17,[262] and he further prays for the costs of FC/D 3391/2020 to be determined by this court.[263] In the alternative, the Husband prays for an order for the matter to be remitted back to the DJ for costs to be determined at the conclusion of the appeals.[264] In the further alternative, the Husband seeks an order for the matter to be taxed.[265] The Wife argues that the Husband's appeal has wasted the court's resources and her resources, and costs should be awarded to her against the Husband.[266]

124 Dealing first with the costs of FC/D 3391/2020, it is not appropriate for this court to deal with those costs because the DJ has not rendered a decision on costs yet. As noted at [50(10)] of the NE Judgment, the parties were urged to agree on the issue of costs, failing which, the parties were to write in to the court with submissions. There is no record in the joint record of appeal of the parties having made any submissions on costs before the DJ. The Court of Appeal in

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262 AC (DCA 16) at para 1.3(a).

263 AC (DCA 16) at paras 1.3(b) and 9.3.

264 AC (DCA 16) at paras 1.3(c) and 9.4.

265 AC (DCA 16) at para 9.5.

266 RC (DCA 16) at paras 48 and 50.

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CHT v CHU [2021] SGCA 38 ("*CHT*") at [15] dealt precisely with such a situation. In *CHT*, the Court of Appeal declined the appellant's invitation to fix the costs incurred below. The Court of Appeal noted the lower court's directions for parties to try to agree on costs, and to write to the court for directions in respect of costs if they could not agree. The Court of Appeal held that the parties ought to have applied to the lower court instead of asking the Court of Appeal to fix the costs incurred below because the lower court is best placed to decide what costs order should be made in respect of the ancillary matters hearing. The parties, in this case, have not yet applied to the court below. Therefore, they ought to exercise their liberty to apply first instead of asking this court to fix the costs that were incurred below if they cannot agree on the costs for FC/D 3391/2020.

125 As for the costs of DCA 16, DCA 17 and SUM 210, the parties are encouraged to agree on the issue of costs, failing which, I shall hear the parties on the issue of costs.

Tan Siong Thye
Senior Judge

Pang Khin Wee (Peng Qinwei) (I.R.B Law LLP) for the appellant in HCF/DCA 16/2024 and the respondent in HCF/DCA 17/2024;
Campos Godwin Gilbert, U Sethuraj Naidu and Adam Naeha Sitara Binte Adam Rabbani (Godwin Campos LLC) for the respondent in HCF/DCA 16/2024 and the appellant in HCF/DCA 17/2024.

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