IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2026] SGFC 134

FC/D 1949/2024
FC/SUM 1435/2026

Between

XTQ

… *Plaintiff*

And

XTR

… *Defendant*

GROUNDS OF DECISION

[Family law] – [Forum non conveniens] – [Second stay application] – [Issue estoppel] – [Forum election]

Version No 1: 12 Oct 2026 (15:14 hrs)

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XTQ
v
XTR

[2026] SGFC 134

Family Court — D 1949/2024 (FC/SUM 1435/2026)
District Judge Chia Wee Kiat
12 August 2026 and 25 August 2026

12 October 2026

District Judge Chia Wee Kiat:

Background

1 The Plaintiff shall be referred to as the "Wife" and the Defendant shall be referred to as the "Husband".

2 The parties were both Indian nationals by birth.[1] They were married on 25 January 2004 in Mumbai, India.[2] There are no children to the marriage.[3] At the time of the marriage, the Wife was working in Singapore, and the Husband was working in Malaysia.[4]

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1 Husband's Written Submissions dated 30 July 2026 at [7].

2 Husband's Written Submissions dated 30 July 2026 at [9(a)].

3 Husband's Written Submissions dated 30 July 2026 at [6].

4 Husband's Written Submissions dated 30 July 2026 at [9(a)].

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3 In 2005, the Husband moved to Singapore to join the Wife.[5] In 2008, both parties obtained Singapore citizenship[6] and renounced their Indian citizenship.[7]

4 In 2009, the parties purchased the matrimonial home located at the Pinnacle@Duxton. They resided there as husband and wife from 2009 till May 2014,[8] when the Husband relocated to Japan for work.[9] The Wife joined the Husband initially but subsequently returned to Singapore on her own.[10]

5 In March 2019, the parties sold the matrimonial home and the Wife bought a property located at the Central View in her sole name.[11] The Husband remained in Japan till December 2022 when he informed the Wife that his employer had posted him to the United States of America ("USA") and that he would be relocating there.[12] Since then, he had been working and living in the USA.[13]

6 On 5 August 2023, the Husband filed a divorce petition in Mumbai.[14] The Husband said that he chose to commence divorce proceedings in Mumbai because Mumbai would be the most appropriate court to determine the parties'

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5 Husband's Written Submissions dated 30 July 2026 at [9(b)].

6 Husband's Written Submissions dated 30 July 2026 at [9(c)].

7 Wife's Written Submissions dated 29 July 2026 at [7].

8 Wife's Written Submissions dated 29 July 2026 at [8].

9 Husband's Written Submissions dated 30 July 2026 at [9(d)].

10 Wife's Written Submissions dated 29 July 2026 at [9].

11 Wife's Written Submissions dated 29 July 2026 at [10].

12 Wife's Written Submissions dated 29 July 2026 at [12].

13 Husband's Written Submissions dated 30 July 2026 at [9(d)].

14 Husband's Written Submissions dated 30 July 2026 at [10].

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matrimonial matters. Mumbai was where they had registered their marriage and maintained ties to. The parties also both had Overseas Citizen of Indian status which allowed them to live and work in India without restrictions.[15]

7 On 29 April 2024, the Wife filed for judicial separation *vide* FC/D 1949/2024 ("D 1949") on the Husband's unreasonable behaviour.[16] According to the Wife, she was not aware of the Indian divorce when she commenced D 1949.[17]

8 On 9 July 2024, the Husband filed FC/SUM 2145/2024 to stay D 1949[18] on the ground of *forum non conveniens*.[19] In his supporting affidavit, the Husband said that he moved to the USA[20] after staying in Japan for almost a decade.[21] He had been residing in the USA and would return to India whenever possible.[22] Eventually, he hoped to find a job that would allow him to settle down in Mumbai permanently.[23]

9 The Husband said that he did not own any property in Singapore apart from his bank account. On the other hand, both parties owned bank accounts in India. He was of the view that the Wife's property in Singapore in her sole name might be sufficiently dealt with in the Indian divorce proceedings. The

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15 Husband's Written Submissions dated 30 July 2026 at [10].

16 Husband's Written Submissions dated 30 July 2026 at [12].

17 Husband's Written Submissions dated 30 July 2026 at [12].

18 Husband's Written Submissions dated 30 July 2026 at [13].

19 SUM 2145 ("The grounds of the application").

20 Husband's Affidavit in support of stay application dated 9 July 2024 at [12].

21 Husband's Affidavit in support of stay application dated 9 July 2024 at [8].

22 Husband's Affidavit in support of stay application dated 9 July 2024 at [12] and [18].

23 Husband's Affidavit in support of stay application dated 9 July 2024 at [16].

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dissolution of the marriage ought to remain the priority, with spousal maintenance and division being ancillary to such dissolution.[24]

10 The Wife objected to the stay application. She disagreed that the Husband intended to live in Mumbai in the long term.[25] She pointed out that the Husband continued to be a Singapore citizen and had not renounced his Singapore citizenship.[26] He had never purchased a property in India in the course of the 20-year marriage and had instead purchased properties elsewhere.[27] The Husband continued to own bank accounts in Singapore[28] and had substantial monies standing to his CPF accounts.[29] The Husband never worked in India, nor applied for jobs in India.[30] The Wife contended that the Indian courts rely on the concept of domicile in determining jurisdiction[31], and the Husband's domicile of choice was the USA[32] or Singapore[33] but not India.[34]

11 On 18 November 2024, I dismissed the Husband's stay application with costs to the Wife. The Husband failed to discharge the burden of proving that

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24 Husband's Affidavit in support of stay application dated 9 July 2024 at [24].

25 Wife's Reply Affidavit dated 8 August 2024 at [94].

26 Wife's Reply Affidavit dated 8 August 2024 at [94(a)].

27 Wife's Reply Affidavit dated 8 August 2024 at [94(c)].

28 Wife's Reply Affidavit dated 8 August 2024 at [94(e)].

29 Wife's Reply Affidavit dated 8 August 2024 at [94(f)]; Wife's Written Submissions dated 4 October 2024 at [55(g)].

30 Wife's Reply Affidavit dated 8 August 2024 at [94(g)]; Wife's Written Submissions dated 4 October 2024 at [55(b)].

31 Wife's Written Submissions dated 4 October 2024 at [98]-[99].

32 Wife's Written Submissions dated 4 October 2024 at [53].

33 Wife's Written Submissions dated 4 October 2024 at [55].

34 Wife's Written Submissions dated 4 October 2024 at [51]-[52].

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India was an available forum, and this foreclosed the *Spiliada* inquiry altogether. In my brief grounds of decision, I explained as follows:

> 5 … the Husband bears the burden of showing *firstly* that India is an available forum and *secondly* that India is clearly or distinctly more appropriate than Singapore to determine the dispute.
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> 6 As noted in *TGT v TGU* [2015] SGHC 10 ("*TGT v TGU*") (at [21]), a foreign court will be available if it has "competent jurisdiction" or "it is open to the plaintiff to institute proceedings as of right in that forum". If the foreign court is unavailable, this would foreclose the *Spiliada* inquiry altogether: see *TGT v TGU* (at [24]).
>
> 7 In the present case, the Husband did not file any expert affidavit to show that India is a competent jurisdiction to hear the Wife's application for judicial separation or that the Wife is entitled to institute proceedings for judicial separation as of right in India. While the Husband did exhibit a correspondence dated 18 August 2024 by his lawyers in India, that would not suffice. As noted by the Court of Appeal in *Pacific Recreation Pte Ltd v S Y Technology Inc and Another Appeal* [2008] SGCA 1 (at [64]):
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> > If a party has previously sought the opinion of a foreign law expert and has obtained such an opinion in some private correspondence, in order for that correspondence to be admitted, it must be contained in an affidavit of the expert himself and not the party to whom the opinion was addressed.
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> 8 Further, as noted at [85] of the same case:
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> > Even though the expert may submit his conclusions, he must present the materials and the grounds he uses to make his conclusions. The expert may not usurp the function of the court and present his finding. Further he cannot decide the issue by applying the law to the facts without setting out the law and the reasoning process.
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> 9 I find, in this regard, that there was a failure on the part of the Husband's lawyers in India to set out the law and the reasoning process when they expressed their belief that the domicile requirement in the ongoing divorce proceedings in India "has already been sufficiently addressed by the court in India when accepting the petition and sending summons to Singapore". Hence, even if the correspondence had been admitted, I would have accorded little weight to the expert opinion.

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> 10 Additionally, it is important to bear in mind that the dispute in the present case concerns a writ for judicial separation filed by the Wife. As noted by Professor Leong Wai Kum in Elements of Family Law in Singapore (3rd Edition) at pp. 175 -176, judicial separation offers only provisional relief from an unhappy marriage. This may be contrasted with divorce which terminates the marital relationship with finality. Both proceedings are distinct as the plaintiff in an application for judicial separation is seeking only temporary relief and is not terminating the marriage.
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> 11 I note that the opinion expressed by the Husband's lawyers in the correspondence centres on the ongoing divorce proceedings in India with only a passing mention of "judicial separation". No elaboration was provided to shed light on the law concerning judicial separation in India. Without any details, there is simply no basis for this court to make a determination that the Wife is entitled to institute proceedings for judicial separation as of right in India, bearing in mind that judicial separation is distinct from divorce.
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> 12 As the Husband has failed to discharge the burden of proving that India is an available forum, this would foreclose the *Spiliada* inquiry altogether. On this ground alone, the application for stay must be denied.
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> 13 In any event, on the assumption that India is an available forum, I find that the Husband has not discharged the burden of showing that India is clearly or distinctly a more appropriate forum than Singapore.

12 Consequently, I directed that the Defence be filed and served within 14 days, i.e. by 14 December 2024. I indicated that in the event of an appeal, full written grounds would be rendered.

13 The Husband did not appeal the decision and filed his Defence on 2 December 2024. The trial took place before District Judge Eugene Tay ("the DJ") on 14 May 2025. On 28 August 2025, the DJ granted a judgment of judicial separation. The DJ found that the Husband had behaved in such a way that the Wife could not reasonably be expected to continue living with him: see *XTQ v XTR* [2025] SGFC 116 (at [50]).

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14 On 11 September 2025, the Husband filed a Notice of Appeal *vide* HCF/DCA 108/2025 against the whole of the DJ's decision. The appeal was heard and dismissed in its entirety by Mavis Chionh J: see *XTR v XTQ* [2026] SGHCF 11 (at [124]).

15 Following the dismissal of the Husband's appeal, directions were given at a case conference for parties to file and exchange their Affidavit of Assets and Means ("AOM") by 29 May 2026.[35] The Husband did not file his AOM but instead filed a second stay application *vide* FC/SUM 1435/2026 ("SUM 1435") on 5 June 2026.

16 In SUM 1435, the Husband applied for the following orders:

> 1. That the ancillary matters in FC/D 1940/2024 ("D 1949") be stayed on the basis of *forum non conveniens*, i.e., that Singapore is not an appropriate forum in which to determine the action herein, and that India is an available and more appropriate forum for the action herein to be determined;
>
> 2. Such further or other relief as the Honourable Court deems fit; and
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> 3. That the Plaintiff shall pay the costs of this application.

17 The Wife objected to the Husband's application.

18 On 25 August 2026, I dismissed the Husband's second stay application with costs to the Wife fixed at $2,000. I found that that the application was barred by issue estoppel and this ground alone was sufficient to dispose of the matter. I indicated that it was unnecessary for the purpose of my decision to go into other matters that I had also considered in reaching my decision and that

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[35] Wife's Written Submissions dated 29 July 2026 at [14(r)].

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full written grounds would be rendered to provide a more complete analysis in the event of an appeal.

19 As the Husband has appealed the decision *vide* HCF/RAS 20/2026, I now provide my full grounds of decision.

The Husband's case

20 The Husband acknowledged that his first stay application was dismissed and he did not challenge it.[36] However, he said that there had since been material developments in the Indian divorce. The parties attended marriage counselling arranged by the Indian court on 22 October 2024, 30 January 2025 and 3 May 2025.[37] On 30 January 2025, the Wife filed an "Application for Production of Document of the Petitioner" seeking disclosure of an extensive list of financial documents.[38] On 2 August 2025, the Wife filed her "Affidavit of Assets and Liabilities", "Application for Interim Maintenance" and her "Written Statement".[39] On 17 December 2025, parties attended a hearing in Mumbai together with their lawyers, and the Wife re-stated her claim for maintenance, both interim and "permanent".[40] A hearing to determine the Wife's claims for financial relief was initially fixed on 6 June 2026, but this was adjourned to 25 August 2026 as the Judge took emergency leave.[41]

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36 Husband's Written Submissions dated 30 July 2026 at [18].

37 Husband's Written Submissions dated 30 July 2026 at [19(b)].

38 Husband's Written Submissions dated 30 July 2026 at [19(c)].

39 Husband's Written Submissions dated 30 July 2026 at [19(d)].

40 Husband's Written Submissions dated 30 July 2026 at [19(e)].

41 Husband's Written Submissions dated 30 July 2026 at [19(f)].

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21 The Husband contended that one of the reasons raised by the Wife in resisting the first stay application was that the Indian divorce did not include prayers on financial reliefs.[42] However, that was no longer the case as the Wife had altered the complexion of the Indian divorce by actively participating and filing applications for financial reliefs in India.[43]

22 On the basis that the Wife was seeking substantive financial reliefs in both Singapore and India, and that the Indian divorce was at a more advanced stage, the Husband believed that it would be prejudicial to him if the Wife was allowed to continue pursuing her claims in D 1949.[44] As the Wife had submitted to the jurisdiction of the Indian court, she should not be allowed to claim ancillary reliefs in Singapore.[45]

The Wife's objections

23 The Wife asserted that she was not seeking duplicative reliefs. Her application in India was confined to interim maintenance pending the determination of the Husband's divorce petition.[46] This was temporary in nature, designed only to preserve her financial position during the pendency of those proceedings. It did not involve, nor was it capable of constituting a final determination of the parties' proprietary or financial rights arising from the marriage.[47]

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42 Husband's Written Submissions dated 30 July 2026 at [21].

43 Husband's Written Submissions dated 30 July 2026 at [22].

44 Husband's Written Submissions dated 30 July 2026 at [23].

45 Husband's Written Submissions dated 30 July 2026 at [38].

46 Wife's Written Submissions dated 29 July 2026 at [62].

47 Wife's Written Submissions dated 29 July 2026 at [62].

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24 The Wife contended that the Indian court's power to order permanent alimony could only arise after a decree of divorce had been granted.[48] Moreover India had no legislation providing for the division of matrimonial assets.[49]

25 The Wife said that the Indian court had not heard the dissolution of the parties' marriage[50] after almost three years.[51] While documents had been filed by both parties in the Indian proceedings, no decree of divorce had been granted, no ancillary proceedings had been commenced, and no final determination had been made in relation to any financial issues between the parties.[52]

26 The Wife also pointed out that there was nothing to prevent the Husband from commencing divorce proceedings in Singapore if dissolution of the marriage was the relief he was seeking. The Husband is a Singapore citizen and had demonstrated the ability to retain Singapore solicitors and participate effectively in these proceedings.[53]

27 If the Husband's second stay application was granted at this stage, the inevitable consequence would be that the Singapore proceedings in D 1949 would be halted midway through the ancillary process, while the parties continue to litigate the Husband's divorce petition in India.[54] This would result in a fragmentation of the proceedings.[55]

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48 Wife's Written Submissions dated 29 July 2026 at [63].

49 Wife's Written Submissions dated 29 July 2026 at [80].

50 Wife's Written Submissions dated 29 July 2026 at [64].

51 Wife's Written Submissions dated 29 July 2026 at [23].

52 Wife's Written Submissions dated 29 July 2026 at [77].

53 Wife's Written Submissions dated 29 July 2026 at [100].

54 Wife's Written Submissions dated 29 July 2026 at [87].

55 Wife's Written Submissions dated 29 July 2026 at [8].

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28 The Wife pointed out that the Husband had elected to continue with the divorce proceedings in India despite having failed in his first stay application. She contended that he should not be allowed to rely upon a state of affairs substantially brought about by his own conduct to justify reopening an issue that had already been determined against him.[56]

29 The Husband could not avoid the operation of issue estoppel simply by advancing a different factual narrative. Unless the Husband could demonstrate a material change in circumstances affecting the issue previously decided, the issue could not be reopened.[57] The matter was *res judicata*.[58]

Analysis

Res judicata

30 The concept of *res judicata* was explained by the Court of Appeal ("CA") in *The Royal Bank of Scotland NV v TT International Ltd* [2015] 5 SLR 1104 (at [98]) as follows:

> As Lord Sumption put it in the UK Supreme Court's decision in *Virgin Atlantic Airways Ltd v Zodiac Seats UK Ltd (formerly Contour Aerospace Ltd)* [2014] AC 160 ("*Virgin Atlantic*") at [17], *res judicata* is a "portmanteau term which is used to describe a number of different legal principles with different juridical origins". For present purposes, we need concern ourselves with only three such "distinct but interrelated" principles, namely: (a) cause of action estoppel; (b) issue estoppel; and (c) what is known as either the "extended" doctrine of *res judicata* or the defence of "abuse of process": see the decision of Sundaresh Menon JC in *Goh Nellie v Goh Lian Teck* [2007] 1 SLR(R) 453 ("*Goh Nellie*") at [17]–[25]. Broadly speaking, these three principles operate to preclude litigants from making arguments that were previously

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56 Wife's Written Submissions dated 29 July 2026 at [89].

57 Wife's Written Submissions dated 29 July 2026 at [45].

58 Wife's Written Submissions dated 29 July 2026 at [32].

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> rejected by a court or tribunal, or that they ought to have advanced on an earlier occasion. Underlying all three principles is the policy that litigants should not be twice vexed in the same matter, and that the public interest requires finality in litigation.

31 The CA emphasised (at [103]) that it is important, at the outset, to identify which of the three distinct principles of *res judicata* is engaged, as the applicable requirements differ. In the present case, the Wife relied specifically on issue estoppel. The question I had to determine was therefore whether the requirements of issue estoppel were satisfied.

32 In *Goh Nellie v Goh Lian Teck* [2007] 1 SLR (R) 453 ("*Goh Nellie*"), the High Court, citing *Lee Tat Development Pte Ltd v MCST Plan No 301* [2005] 3 SLR(R) 157, held (at [26]) that the following requirements had to be met to establish an issue estoppel:

(a) there must be a final and conclusive judgment on the merits;

(b) that judgment must be of a court of competent jurisdiction;

(c) there must be identity between the parties to the two actions that are being compared; and

(d) there must be an identity of subject matter in the two proceedings.

33 With regard to the last requirement, the court explained (at [34]) as follows:

> The requirement that the subject matter of both proceedings be identical encapsulates a number of discrete conceptual strands. Firstly, the issues must be identical in the sense that the prior decision must traverse the same ground as the subsequent proceeding and the facts and circumstances iving rise to the earlier decision must not have changed or should be

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> incapable of change. Where this is not the case, issue estoppel may not arise.

34 The Husband did not dispute that the first three requirements were satisfied. However, the Husband submitted that there was no identity of subject matter[59] and hence the fourth requirement was not satisfied.[60]

35 The Husband contended that the analysis had shifted from the breakdown of the marriage and the status of the parties to the financial reliefs that were being sought by the parties.[61] Additionally, the facts in the second stay application were different from those in the first stay application in that the Wife was now residing in India, had started to seek reliefs in India and the process in India had actually moved on much further than in Singapore.[62]

36 As explained in my brief grounds, the Husband's first stay application was not confined to the breakdown of the marriage and status of the parties. In his affidavit dated 9 July 2024 in support that application, the Husband had deposed at [24] as follows:

> With regard to the division of matrimonial assets and spousal maintenance, I wish to state that I do not own any property in Singapore apart from my bank account which is used to handle legal fees. On the other hand, to my knowledge, both the Plaintiff and I own bank accounts in India. While the Plaintiff owns a property in Singapore in her sole name, I am of the view that this may be sufficiently dealt with in the India divorce proceedings …

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59 Transcript dated 12 August 2026 at p 13.

60 Transcript dated 12 August 2026 at p 13.

61 Transcript dated 12 August 2026 at pp 13 – 14.

62 Transcript dated 12 August 2026 at p 13.

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37 Clearly, the issue of the appropriate forum to hear the ancillary matters was specifically raised and argued by the Husband in the first application. The earlier decision, which determined that the Singapore proceedings should not be stayed in favor of India, encompassed the ancillary matters. The prior decision traversed substantially the same ground as the second stay application in that both concerned whether the ancillary matters proceedings in Singapore should be stayed.

38 The Husband's other contention with respect to new facts that occurred after the dismissal of the first stay application brought into focus how the sub-requirement, i.e. that "the facts and circumstances giving rise to the earlier decision must not have changed or should be incapable of change" was to be understood in the particular context of a second application for a stay on the ground of *forum non conveniens*. This appeared to be a relatively novel issue, as neither party had cited any authority dealing directly with such a scenario.

39 In the absence of direct authority, I was of the view that a commonsensical approach should be adopted, balancing the competing interests of finality in litigation against the need to ensure that a party was not unfairly precluded from relying on a genuine and material change in circumstances that fundamentally altered the basis upon which the earlier decision was made.

40 This approach accorded with the emphasis in *Goh Nellie* on a commonsensical assessment balancing finality against the need not to foreclose a litigant from arguing an issue, in the context of the second requirement for issue estoppel. The court noted (at [37]) as follows:

> In my judgment, the assessment of which side of the line an issue falls should be approached from a commonsensical perspective, balancing between the important public interest in securing finality and in ensuring that the same issues are not

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> repeatedly litigated on one hand, and on the other, the private interest in not foreclosing a litigant from arguing an issue which, in substance, was not the central issue decided by a previous court. In this regard, I find Lord Upjohn's dictum in *Carl Zeiss Stiftung v Rayner & Keeler Ltd (No 2)* [1967] 1 AC 853 ("*Carl Zeiss*") at 947 apposite:
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> > All estoppels are not odious but must be applied so as to work justice and not injustice and I think the principle of issue estoppel must be applied to the circumstances of the subsequent case with this overriding consideration in mind.

41 In that case, the court also adopted the same balancing approach in the context of determining whether the ambient circumstances of the case gave rise to an abuse of process. The court noted (at [53]) as follows:

> In determining whether the ambient circumstances of the case give rise to an abuse of process, the court should not adopt an inflexible or unyielding attitude but should remain guided by the balance to be found in the tension between the demands of ensuring that a litigant who has a genuine claim is allowed to press his case in court and recognising that there is a point beyond which repeated litigation would be unduly oppressive to the defendant.

42 In my view, the balance could not be struck merely by asking whether there had been any change in circumstance since the earlier stay application. In the context of *forum non conveniens*, circumstances may inevitably evolve with the passage of time. There would be no meaningful finality to a determination on *forum non conveniens* if every subsequent development bearing upon connecting factors could be relied upon to mount a fresh stay application. The doctrine of finality would be substantially undermined if a litigant could revive an unsuccessful stay application whenever the factual balance between the two jurisdictions shifts. The change must therefore be one of sufficient significance to alter materially the basis upon which the forum question was previously determined. The threshold for reopening a stay application that had already been determined must necessarily be a high one.

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43 As stated in my brief grounds, I was not satisfied that the change in the facts and circumstances put forth by the Husband was of sufficient significance and materiality to revisit the stay application. In my judgment, the second stay application by the Husband was barred by issue estoppel.

44 I now provide a more detailed analysis.

Whether the Wife's purported submission could render India an available forum

45 In the Husband's first stay application, I found that he had failed to discharge the burden of proving that India was an available forum. I noted that the Husband did not file any expert affidavit to show that India was a competent jurisdiction to hear the Wife's application for judicial separation or that the Wife was entitled to institute proceedings for judicial separation as of right in India. I noted further that there was a failure on the part of the Husband's lawyers in India to set out the law and the reasoning process when they expressed their belief that the domicile requirement in the ongoing divorce proceedings in India had been sufficiently addressed by the court in India. Hence, even if the correspondence from his lawyers in India had been admitted, I would have accorded little weight to the expert opinion.

46 In this second application, the Husband asserted that there had been a material development since the first stay decision as the Wife had submitted to the jurisdiction of the Indian court by participating actively in the Indian divorce proceedings. Presumably, this meant that the jurisdiction of the Indian court to hear the husband's divorce petition was no longer an issue. However, no expert affidavit on the relevant Indian law was filed to address whether a party's submission to the jurisdiction of the Indian court could confer jurisdiction on that court.

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47 In the absence of any expert evidence, the presumption of similarity applies. Under this legal principle, it is presumed that the foreign law is the same as Singapore law: *Third Eye Capital Corp v Pretty View Shipping SA and others* [2024] SGHC 96 (at [96]).

48 As noted in *COSCO Shipping Specialized Carriers Co, Ltd v PT OKI Pulp & Paper Mills* [2024] SGHC 273 (at [13]):

> … the Singapore courts are creatures of statute, and the jurisdiction of a court must be statutorily conferred upon that court by the statute constituting it: see *Re Nalpon Zero Geraldo Mario* [2013] 3 SLR 258 at [14]–[20]; *Lee Wee Ching v Wang Piao* [2024] 1 SLR 350 at [21].

49 In Singapore, the jurisdiction requirements for the commencement of divorce proceedings are prescribed by s 93 of the Women's Charter 1961. Where neither party is domiciled in Singapore nor habitually resident in Singapore for the requisite period, the statutory jurisdictional threshold is not satisfied.

50 Parties cannot by agreement, submission or acquiescence, confer upon the court a jurisdiction which it does not otherwise possess. This is clear from *UDA v UDB* [2018] 3 SLR 1433 where Debbie Ong JC (as she then was) made the following observations (at [29]):

> For example, if the parties' marriage had been terminated by a valid foreign divorce judgment, they will not be able to obtain a divorce in the Singapore court (as there is no longer any marriage to dissolve) and consequently, the court has no power under s 112 to divide the parties' matrimonial assets. This is so even if both the parties agree to submit to the jurisdiction of the Singapore court and ask the court for an order under s 112. **The parties' agreement cannot by itself confer jurisdiction on the court.**
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> [emphasis in bold added]

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51 Hence, the fact that the Wife had purportedly submitted to the jurisdiction of the Indian court was not a significant and material change. This development did not affect the earlier determination that the Husband had failed to discharge the burden of showing that India was an available forum.

Whether the Indian court was an available forum for the ancillary matters

52 The Husband further submitted that since judicial separation had already been granted in Singapore, the only matters remaining for determination were the ancillary matters[63], and that the Indian court was an available forum.[64]

53 However, the Husband could not simply establish that India was an available forum for the ancillary matters by treating those matters as severable from the divorce which gave rise to them. To succeed in such an argument, it was incumbent on the Husband to provide expert evidence to establish that the Indian court could determine the ancillary matters independently of the Indian court's jurisdiction over the divorce itself. He did not do so.

54 In the absence of any expert evidence, it is presumed that the relevant Indian law is the same as Singapore law. Under Singapore law, ancillary matters are not standalone proceedings divorced from the underlying matrimonial proceedings. They are consequential upon and flow from the divorce.

55 Applying Singapore law, the burden remained on the Husband to demonstrate that the Indian courts had the requisite jurisdiction to entertain the divorce. He failed to discharge that burden in his first stay application and,

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63 Husband's Written Submissions dated 30 July 2026 at [46].

64 Husband's Written Submissions dated 30 July 2026 at [48].

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despite the opportunity afforded by this second application, failed to do so once again.

Whether Wife did in fact change her residence to India

56 With regard to the Husband's claim that the Wife had "not even been living in Singapore anymore",[65] the Wife explained that she had made several trips to India, primarily to visit her aged parents, in particular her mother, who had been suffering from medical conditions and required her assistance with her recovery from various medical procedures. The Wife said that she was also planning future trips to be there to assist her mother as she recovered from shingles, as well as to help her family handle a situation surrounding the development of their home, which would render them homeless should they be unable to secure alternative housing.[66]

57 The Wife said that these visits were motivated by filial duty and compassion, not by any intention to re-establish residence in India. Her trips to India had been temporary and purpose-specific and did not reflect any intention to abandon her home in Singapore.[67] She had no intention of selling her property at the Central View and Singapore remained her home.[68]

58 In my judgment, the Husband's assertion that the Wife had ceased residing in Singapore was not borne out by the evidence. The mere fact that the Wife was physically present in India was not sufficient to establish that she had

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65 Husband's Affidavit in support of stay application dated 5 June 2026 at [35].

66 Wife's Reply Affidavit dated 30 June 2026 at [58].

67 Wife's Reply Affidavit dated 30 June 2026 at [58].

68 Wife's Reply Affidavit dated 30 June 2026 at [58].

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taken up residence there, especially in the face of other objective evidence pointing to the Wife's continued residence in Singapore.

59 As the Husband had not proved that the Wife had changed her residence to India, it was unnecessary to consider the further question of whether the alleged change constituted a significant and material change.

Whether there had been a change in the relative progress of the proceedings in Singapore and India

60 I was also unable to accept the Husband's assertion that the Indian divorce proceedings had progressed further than the Singapore proceedings. That assertion was not borne out by the evidence. In Singapore, judgment of judicial separation had already been granted and the appeal against that judgment had been dismissed. The parties had progressed to the ancillary matters stage. These proceedings had not advanced further only because they had been halted by the Husband's second application for a stay.

61 In contrast, the divorce petition in India had not even been heard, much less determined. Viewed objectively, therefore, the procedural history did not support the Husband's contention that the Indian proceedings were at a more advanced stage than the Singapore proceedings.

62 In any event, the mere advancement of the Indian divorce proceedings could not constitute a change of sufficient significance to reopen the issue. If such ordinary development were sufficient to justify reconsideration of a stay application which had already been determined, there would be no meaningful point at which the determination of the appropriate forum could be regarded as final. That would undermine the finality which the doctrine of issue estoppel was intended to secure.

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Issue estoppel barred the Husband from relitigating the forum issue

63 As I found that none of the developments relied upon by the Husband warranted the forum issue being reopened and determined afresh, issue estoppel applied and the Husband was barred from reopening and relitigating the forum issue in the present application.

Even if determined afresh, application would still be dismissed

Husband failed to establish that India was an available forum

64 In any event, even if the forum issue were open to determination afresh, I would have reached the same conclusion and dismissed the application. This was because the Husband still had not discharged the burden of showing that India was an available forum with jurisdiction to determine the parties' divorce and consequently, the ancillary matters arising from it. This, as noted in *TGT v TGU* [2015] SGHC 10 (at [21]), would foreclose the *Spiliada* inquiry altogether.

Connecting factors did not establish India as clearly or distinctly more appropriate forum

65 Further, even assuming that India was an available forum, the Husband had not shown that India was clearly or distinctly the more appropriate forum for the determination of the ancillary matters. I elaborate below.

(1) Lis alibi pandens

66 The Husband submitted that *lis alibi pendens* was an important factor in stay applications under the *forum non conveniens* doctrine, particularly because it concerned duplication of resources and conflicting judgments.[69] The Husband

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[69] Husband's Written Submissions dated 30 July 2026 at [54].

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asserted that while India had no provision for division of assets, the Wife could still have a claim to the Husband's assets through a claim for alimony.[70]

67 The concept of *lis alibi pendens* was considered in *XLV v XLW* [2025] SGHCF 35 where Teh Hwee Hwee J held (at [54]) as follows:

> It is well established that the existence of parallel proceedings is a relevant factor in the forum non conveniens analysis (*MAN Diesel & Turbo SE and another v IM Skaugen SE and another* [2020] 1 SLR 327 ("MAN Diesel") at [154], citing *Virsagi Management (S) Pte Ltd v Welltech Construction Pte Ltd and another appeal* [2013] 4 SLR 1097 ("*Virsagi*") at [38]; *TDX v TDY* at [18]). The existence of parallel proceedings gives rise to concerns of duplication of resources and the risk of conflicting judgments (*MAN Diesel* at [154]). However, the weight to be given to the existence of parallel proceedings depends on the circumstances, including the degree to which the respective proceedings have advanced, and the degree of overlap of issues and parties (*Virsagi* at [39], referring to commentary of Professor Yeo Tiong Min in *Halsbury's Laws of Singapore* vol 6(2) (LexisNexis, 2009) at para 75.094).

68 An example where there was no overlap of issues may be seen in the case of *BDA v BDB* [2013] 1 SLR 607 where the court observed (at [30]) as follows:

> In this regard, I ought also to point out that the pending divorce proceedings instituted by the Husband in India is not for the same relief as that claimed by the Wife in the present maintenance application in Singapore. If the Husband were to succeed in his divorce petition, it would result in the termination of the marriage, with the Wife being entitled to apply for post-divorce maintenance. On the other hand, the maintenance application by the Wife pursuant to s 69 of the Women's Charter is premised on the subsistence of the marriage. Thus both proceedings are distinct and do not cover the same grounds.

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70 Husband's Written Submissions dated 30 July 2026 at [50] and [52].

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69 In the present case, the Husband did not provide any expert evidence to show that the difference between the ancillary reliefs in the Singapore proceedings and the Indian proceedings was a "technical difference in the names of the reliefs available".[71] There was no reasonable excuse for this omission, as he ought to have been aware of the need to adduce expert evidence to establish the relevant principles of foreign law.

70 Further, the Husband had not shown that the Indian proceedings were at a more advanced stage than the Singapore proceedings. In fact, the Singapore proceedings were considerably more advanced.

71 In the circumstances, I did not find this factor to favour a stay.

(2) Wife's purported submission to the Indian court's jurisdiction

72 The Husband also relied on the Wife's purported submission to the jurisdiction of the Indian court.[72] The Husband submitted that Wife could have proceeded only in Singapore, but she deliberately chose to seek relief in India.[73]

73 As will be recalled, this argument was earlier discussed in the context of whether India was an available forum. The issue now was whether the Wife's participation in the Indian proceedings was a connecting factor pointing to India as the more appropriate forum.

74 I did not consider the Wife's participation in the Indian divorce proceedings to be a factor weighing in favour of a stay. It should be noted that

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71 Husband's Written Submissions dated 30 July 2026 at [53].

72 Husband's Written Submissions dated 30 July 2026 at [58].

73 Husband's Written Submissions dated 30 July 2026 at [60].

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the Husband's first stay application was dismissed. Notwithstanding that determination, he chose to continue pursuing the divorce proceedings in India when he could have pursued the divorce in Singapore. The Wife was naturally placed in a position where she had to take such steps as were reasonably necessary to protect her interests in those proceedings, including seeking financial reliefs there. Her participation in the Indian proceedings must be viewed in that context.

75 More fundamentally, the Husband could not rely on a state of affairs brought about by his own decision to continue the Indian proceedings after his stay application had failed as a basis for contending that the balance had now shifted in favour of India. To permit this would mean that a party could, by continuing parallel foreign proceedings notwithstanding the refusal of a stay, progressively create the very circumstances which he later relies on to justify a renewed stay application.

76 Furthermore, the Husband himself had participated in the Singapore proceedings. He took part in the judicial separation trial and, following the decision against him, pursued an appeal. Hence, by the same token, if the Wife's participation in the Indian proceedings was said to constitute submission to the jurisdiction of the Indian court, the Husband's participation in the Singapore proceedings could be characterised in the same way.

77 In fact, rule 325 of the Family Justice Rules 2014 ("FJR 2014"), which applies to the present proceedings, provides as follows:

> Dispute as to jurisdiction, etc.
>
> 325.—(1) A defendant who wishes to dispute the jurisdiction of the Court in the proceedings by reason of any such irregularity referred to in rule 324 or on any other ground must enter an

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> appearance and within the time limited for serving a defence apply to the Court for—
>
> (a) an order setting aside the writ or service of the writ on him;
>
> (b) an order declaring that the writ has not been duly served on him;
>
> (c) the discharge of any order giving leave to serve the writ on him out of the jurisdiction;
>
> (d) the discharge of any order extending the validity of the writ for the purpose of service;
>
> (e) the protection or release of any property of the defendant seized or threatened with seizure in the proceedings;
>
> (f) the discharge of any order made to prevent any dealing with any property of the defendant;
>
> (g) a declaration that in the circumstances of the case the Court has no jurisdiction over the defendant in respect of the subject- matter of the claim or the relief or remedy sought in the action; or
>
> (h) such other relief as may be appropriate.
>
> (2) A defendant who wishes to contend that the Court should not assume jurisdiction over the action on the ground that Singapore is not the proper forum for the dispute must —
>
> (a) enter an appearance; and
>
> (b) within the time limited for serving a defence, or such other longer period as the Court may allow, apply to the Court for an order staying the proceedings.
>
> …
>
> (6) Except where the defendant makes an application in accordance with paragraph (1), the appearance by a defendant shall, unless the appearance is withdrawn by leave of the Court under rule 429, be treated as a submission by the defendant to the jurisdiction of the Court in the proceedings.

78 The Husband entered a Memorandum of Appearance on 25 June 2024 and did not make an application under r 325(1) of the FJR 2014. Pursuant to r 325(6), the appearance was treated as a submission by the Husband to the jurisdiction of the Family Court in the proceedings. Hence, the Wife's purported

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submission to the jurisdiction of the Indian court did not favour a stay. It was at best a neutral factor given that the Husband had also submitted to the jurisdiction of the Singapore court.

(3) Connection to India

79 The Husband submitted that the parties had stronger connection to India.[74]

(A) PARTIES' RESIDENCE

80 First, the Husband submitted that neither party was a resident of Singapore.[75]

81 I accepted that the parties' residence is a relevant connecting factor. In *AZS v AZR* [2013] SGHC 102 ("*AZS v AZR*"), Andrew Ang J noted (at [15]) as follows:

> The district judge did not err in finding that the parties' French nationality was of limited significance and that greater weight should be given to the fact of the parties' residence in Singapore as a connecting factor. As stated in *BDA* at [29], nationality *per se* is of limited significance; residency and/or domicile are better indicators of the strength of a party's connection to a particular forum. Indeed, the Husband has spent little of his adult life either residing or working in France; the son has also spent very little time on French soil. In contrast, the parties have lived in Singapore for the last six or seven years. The Wife also stated in her affidavits that she only acquired French citizenship in 2006 in order to visit her in-laws more easily and to oblige the Husband. Thus, in the light of the parties' residence in Singapore, the Husband had a greater evidential burden to adduce other convincing countervailing factors in favour of a stay (*BDA* at [24]).

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74 Husband's Written Submissions dated 30 July 2026 at [72].

75 Husband's Written Submissions dated 30 July 2026 at [73].

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82 In the present case, the Husband's assertion that neither party was a resident of Singapore was not borne out by the evidence. As observed earlier, the evidence did not show that the Wife had ceased to reside in Singapore.

83 In contrast, the facts showed clearly that neither party was resident in India. The Husband admitted that he had stayed in Japan for almost a decade before he moved to the USA where he had been residing to-date.

84 The parties' residence plainly did not favour India as the more appropriate forum. If anything, this connecting factor pointed towards Singapore, where the Wife, a Singapore citizen, continued to reside.

(B) PARTIES' BANK ACCOUNTS AND PROPERTIES

85 The Husband also relied on the fact that the Wife maintained three ICIC bank accounts in India, while he maintained one account with the bank.[76] However, the mere existence of these bank accounts did not establish any meaningful connection with India bearing in mind that parties had other assets that were not located in India.

86 In this regard, the following observations in *AZS v AZR* (at [21]) are relevant:

> Although the district judge was also correct in stating that the Singapore courts could deal with the division of worldwide assets in ancillary hearings, some emphasis should also be placed on the fact that the matrimonial properties are located in foreign jurisdictions. For instance, in *Mala Shukla*, the fact that the parties there had immovable property in India but not Singapore was a pertinent factor in favour of a stay (*Mala Shukla* at [54]). Similarly here, the fact that the parties have immovable property in France but not Singapore should be a supporting factor for a stay of the Singapore proceedings.

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[76] Husband's Written Submissions dated 30 July 2026 at [78].

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87 In the present case, the parties did not have any immovable assets in India. In contrast, the Central View property in the Wife's sole name was located in Singapore. This consideration weighed against a stay.

88 Furthermore, parties also had substantial CPF savings which were held in Singapore and governed by Singapore law. Any order made by a foreign court would not bind the CPF Board. In contrast, the Singapore courts have the statutory power to make orders for the division and transfer of CPF monies that are capable of direct implementation by the CPF Board. Hence, the practical effectiveness and enforceability of any order concerning the CPF savings also favoured Singapore as the more appropriate forum.

(4) Forum election

89 The Husband further submitted that the Wife should be put to elect a forum.[77] He contended that the Wife's conduct was an inherent abuse of two judicial systems and stood to gain from two sets of financial orders made against him.[78]

90 The doctrine of foreign election is conceptually distinct from the doctrine of *forum non conveniens*. In *Virsagi Management (S) Pte Ltd v Welltech Construction Pte Ltd* [2013] 3 SLR 1097, the CA explained the doctrine of forum election (at [30]) as follows:

> (1) The doctrine of forum election
>
> An application made by the defendant to put the plaintiff to an election is the first way in which a *lis alibi pendens* may affect the jurisdiction of the court under private international law. This will apply *only* in a *common plaintiff* situation. The court in

77 Husband's Written Submissions dated 30 July 2026 at ["C"] p 30.

78 Husband's Written Submissions dated 30 July 2026 at [83].

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Yusen Air further elaborated (at [27]) on the approach to be taken in such cases:

> In our judgment, when a plaintiff sues the same defendant in two or more different jurisdictions over the same subject matter, the defendant can take up an application to compel the plaintiff to make an election as to which set of proceedings he wishes to pursue. *For the purposes of an election, the considerations of* forum conveniens *do not come into play. However, the defendant would need to demonstrate a duplicity of actions in the different jurisdictions. Once this is established, the burden of proof then shifts to the plaintiff to justify the continuance of the concurrent proceedings by showing 'very unusual circumstances'. If the plaintiff fails to demonstrate such unusual circumstances, he would have to make an election.* [emphasis added]

It is important to note that the court in Yusen Air made clear that when the plaintiff is electing which forum to proceed in, any questions regarding which forum is the more appropriate, or natural, forum for the dispute to be tried are irrelevant.

91 The CA explained further (at [32] and [33]) as follows:

> 32 … the court, when asking the plaintiff to elect which forum he wishes to proceed in, is *not* deciding on the appropriateness of the court in exercising its jurisdiction over the dispute – unlike in the situation relating to a stay of proceedings where the doctrine of *forum non conveniens* is applied. That is the reason why the question of whether Singapore is the natural forum to hear the dispute is not relevant when the plaintiff is asked to make an election. The court is merely managing its own process…
>
> 33 Karthigesu JA in *Yusen Air* ([27] *supra*) was also at pains to point out that the doctrine of *forum non conveniens* is not superseded by the doctrine of forum election in common plaintiff cases (at [34]):
>
> > It is also our considered view that the plaintiff's election is not the only way to resolve this issue. Apart from compelling the plaintiff to elect, it remains open to the defendant to take up an application for a stay of local proceedings or a restraint of foreign proceedings if the defendant wishes to have the action tried in one of the jurisdictions where the plaintiff has commenced an action.

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92 The application before me was expressly premised on *forum non conveniens*. The Husband had not made any separate application for an order requiring the Wife to elect between Singapore and Indian proceedings. It was procedurally inappropriate to introduce the issue of forum election in the course of an application founded on *forum non convenie*ns. If the Husband wished to invoke the doctrine of forum election and seek relief on that basis, he ought to have done so through a properly constituted application. To permit the Husband to raise forum election in this manner would not only circumvent the procedural requirement, but it would also obfuscate the real issues for determination. In the circumstances, I did not consider it necessary or appropriate to determine whether the Wife should be required to elect between the two sets of proceedings.

93 In any event, the present case did not involve the Wife independently commencing proceedings in two jurisdictions in an attempt to pursue the same claim in both jurisdictions. The Husband was the one who commenced the divorce proceedings in India and continued to pursue them notwithstanding the dismissal of his first stay application in Singapore. The Wife's subsequent application for financial relief in the Indian proceedings was made in circumstances where she had to protect her interests in proceedings which the Husband had chosen to pursue. Her participation in those proceedings could not be equated with the voluntary commencement of duplicative proceedings of the kind contemplated by the doctrine of forum election.

94 It is also important to bear in mind the practical effect of an election. As the CA observed (at [35]-[37]):

> 35 When the plaintiff is put to an election, and he then elects to continue his claim in Singapore, the court will enjoin the plaintiff to stop all other foreign proceedings by way of an injunction. At this juncture, the defendant may be happy for

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> the dispute to be heard in Singapore, and nothing more needs to be done. However, where the defendant does not want proceedings to continue in Singapore, it is open to it to rely on the doctrine of *forum non conveniens* to argue that the overseas forum is clearly or distinctly the more appropriate forum for the dispute to be heard, and therefore to have the Singapore proceedings stayed. This is clear from the observations of Karthigesu JA in *Yusen Air* (see above at [33]).
>
> 36 On the other hand, if the plaintiff elects to pursue its claim in the overseas forum (instead of in Singapore) but the defendant wants the proceedings to continue in Singapore, the latter may seek an anti-suit injunction from the Singapore courts to prevent the plaintiff from carrying on with the foreign proceedings. The plaintiff's election does not, *ipso facto*, preclude the granting of such an injunction. Where, however, the defendant is happy to have the dispute heard abroad, it would have (in substance) obtained the same outcome pursuant to an application to stay proceedings under the doctrine of *forum non conveniens*. It has been said that in such a situation the court will *discontinue* the local proceedings (rather than just grant a stay): see the English High Court decision of *Australian Commercial Research and Development Ltd v ANZ McCaughan Merchant Bank Ltd* [1989] 3 All ER 65 at [70] as well as *Yusen Air* at [32] (citing Smart, "*Lis Alibi Pendens*: Staying or Discontinuing English Proceedings" [1990] LMCLQ 326 at 329)). However, we take the view that the court is not restricted to discontinuing the local proceedings, and may, in the *appropriate circumstances*, grant a stay of proceedings instead. This might be the case where the foreign court's jurisdiction is being challenged (see, for example, the English High Court decision of *AG v Arthur Andersen & Co* The Independent (31 March 1988) and *Yusen Air* at [32]), or where the action in Singapore is brought to obtain security by way of a *Mareva* injunction or attachment of assets (see, for example, the Singapore High Court decision of *Multi-Code Electronics Industries (M) Bhd v Toh Chun Toh Gordon* [2009] 1 SLR(R) 1000 ("*Multi-Code Electronics*")).
>
> 37 It should therefore be clear that the doctrine of forum election, as a mechanism of case management, is never finally dispositive of where the dispute will be heard unless the defendant has no objections to the plaintiff's election.

95 Hence, even if the Wife were required to elect between the two sets of proceedings, that would not resolve the question of *forum non conveniens*. An order requiring the Wife to elect would not establish that India was the more

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appropriate forum, nor would it result in a stay of the Singapore proceedings. The Husband would still have to discharge his burden of satisfying the requirements for a stay on the ground of *forum non conveniens*.

Conclusion

96 In conclusion, I found that the Husband was precluded by issue estoppel from relitigating the question of whether the Singapore proceedings should be stayed in favour of India. Even if I were to consider the application afresh, I would have arrived at the same conclusion. Firstly, the Husband had failed to discharge his burden of establishing that India was an available forum for the determination of the divorce and the ancillary matters. Secondly, even assuming that India was an available forum, the connecting factors did not establish that India was clearly or distinctly the more appropriate forum. On the contrary, several of the relevant connecting factors pointed towards Singapore.

97 Finally, the Husband's attempt to introduce the issue of forum election into the present stay application served only to obfuscate the central issue before me. The stay application was founded on the doctrine of *forum non conveniens*, which required the Husband to establish that India was an available forum and, further, that it was clearly or distinctly the more appropriate forum for the determination of the ancillary matters. The question of whether the Wife should be required to elect between the proceedings in Singapore and India was a separate and distinct issue, governed by different legal principles. Even if the Wife were required to make such an election, that would not establish that India was the more appropriate forum or justify a stay of the Singapore proceedings. The Husband could not circumvent his burden under the doctrine of *forum non conveniens* by introducing the separate issue of forum election. To conflate

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these two distinct doctrines would only obscure, rather than illuminate the question that I was required to determine.

98 For the above reasons, I dismissed the Husband's application for a stay of the ancillary proceedings.

99 Following the dismissal of the application, the Husband requested that the case conference for the ancillary matters be deferred in view of his intention to consider an appeal against my decision. I declined his request. This was already the Husband's second application to stay the proceedings, the first having been dismissed. The resolution of the ancillary matters had been delayed by these successive applications and ought now to proceed towards resolution without further unnecessary delay. The prospect of a further appeal should not be allowed to result in what would effectively be a third stay of the ancillary proceedings.

CHIA WEE KIAT
DISTRICT JUDGE

Ms Sheryl Keith Nuqui Sandhu and Ms Wu Yuqi (Gloria James-Civetta & Co) for the plaintiff;
Mr Shaun Ho Jin Kit and Ms Heidi Ngo Jie Xi (Withers KhattarWong LLP) for the defendant.

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