(1) This judgment DOES/~~DOES NOT~~ need redaction.

(2) Redaction HAS/~~HAS NOT~~ been done.

Chia Wee Kiat
District Judge
3 October 2025

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGFC 105

HCF/RAS 26/2025
FC/OAG 74/2025
FC/SUM 1244/2025

Between

XRG

… *Applicant*

And

XRH

… *Respondent*

GROUNDS OF DECISION

[Family Law] - [Service] - [Substituted Service] - [Setting Aside]

[Family Law] - [Stay of proceedings]

Version No 2: 07 Nov 2025 (08:46 hrs)

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XRG
v
XRH

[2025] SGFC 105

Family Court — OAG 74/2025 (FC/SUM 1244/2025)
District Judge Chia Wee Kiat
17 July 2025, 18 July 2025, 7 August 2025 and 20 August 2025

3 October 2025

District Judge Chia Wee Kiat:

1 The Applicant shall be referred to as the "Mother" and the Respondent shall be referred to as the "Father".

2 The parties are both citizens and nationals of the People's Republic of China. They were in a long-term relationship since 2018 but were never legally married. They resided in the United States from September 2018 to January 2019 where they had their first child in November 2018.[1] Thereafter, they moved to reside in Shanghai, China where they had their second child in June 2020.[2] Both are girls.[3]

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1 Mother's Affidavit (OAG 74) dated 9 April 2025 (A1) at [5]; Father's Submissions dated 16 July 2025 at [1].

2 Mother's Affidavit (OAG 74) dated 9 April 2025 (A1) at [5].

3 Mother's Submissions Opposing Stay at [3].

3 The Mother says that their relationship was often tenuous and distant and fraught with disagreements. This culminated in a serious heated argument in August 2022 where the Father decided to unilaterally move out of their common residence in Shanghai and completely uproot his life to work in Beijing, leaving the Mother to care for the children on her own.[4]

4 The Mother says that sometime in August 2023, the Father proposed for the children and the Mother to relocate to Singapore from China so that the children could benefit from an education here. Parties had a shared understanding that she would remain the primary caregiver and legal guardian of the children as was the case prior to the relocation.[5] The Mother was left alone to care for the children for most of the initial months when they relocated to Singapore.[6]

5 The Mother says that on 20 February 2024, the Father chased her out of the apartment after a heated dispute and she has not been allowed to return to the apartment and have any meaning access time with the children.[7] On 26 February, the Father unilaterally relocated the children to China without her knowledge and became uncontactable for more than a month.[8] It was only on 28 March 2024 that the Father finally responded to her numerous messages to locate the children.[9]

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4 Mother's Affidavit (OAG 74) dated 9 April 2025 (A1) at [7].

5 Mother's Affidavit (OAG 74) dated 9 April 2025 (A1) at [10].

6 Mother's Affidavit (OAG 74) dated 9 April 2025 (A1) at [10].

7 Mother's Affidavit (OAG 74) dated 9 April 2025 (A1) at [12].

8 Mother's Affidavit (OAG 74) dated 9 April 2025 (A1) at [13].

9 Mother's Affidavit (OAG 74) dated 9 April 2025 (A1) at [14].

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6 While the Father was still residing in China with the children, the Mother was extremely frustrated and faced great difficulties surrounding her access arrangements with the Father. She engaged a lawyer in China and commenced an application on 17 April 2024 against the Father for custody and maintenance for the children. The parties subsequently entered into a mediation agreement on 9 July 2024,[10] but despite that agreement, the Father continued to be difficult with access. [11]

7 On 28 July 2024, the Father relocated back to Singapore with the children without the Mother's knowledge.[12] In August 2024, the Mother commenced enforcement of access proceedings against the Father in China but made little progress as the Father had ignored all related communications and was by that time physically in Singapore.[13]

8 After returning to Singapore, the Father imposed many restrictions that made the Mother's access to the children difficult.[14] On 2 April 2025, the Mother instructed solicitors in Singapore to write to the Father for her proposed access arrangements for April 2025 but the Father was unresponsive and shut off almost all modes of communication.[15] The Mother could not get in contact with the Father save for email correspondence which the Father never responded to.[16] It was under these circumstances that the Mother was compelled to

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10 Mother's Affidavit (OAG 74) dated 9 April 2025 (A1) at [21].

11 Mother's Affidavit (OAG 74) dated 9 April 2025 (A1) at [22].

12 Mother's Affidavit (OAG 74) dated 9 April 2025 (A1) at [17].

13 Mother's Affidavit (OAG 74) dated 9 April 2025 (A1) at [22].

14 Mother's Affidavit (OAG 74) dated 9 April 2025 (A1) at [17].

15 Mother's Affidavit (OAG 74) dated 9 April 2025 (A1) at [18].

16 Mother's Affidavit (OAG 74) dated 9 April 2025 (A1) at [19].

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commence custody proceedings[17] *vide* FC/OAG 74/2025 ("OAG 74") filed on 14 April 2025.

9 Attempts were then made to serve the court papers personally on the Father at his workplace at Clemenceau Avenue but were unsuccessful on both occasions.[18] Although the Father has instructed and retained solicitors to represent him in a POHA proceedings against the Mother, he declined to authorise his solicitors to accept service of process for OAG 74.[19] The Father also did not respond to correspondence from the Mother's solicitors sent to his email address.[20]

10 On 29 April 2025, the Mother applied *vide* FC/SUM 937/2025 for substituted service of the court papers on the Father in Singapore premised on the ground that he is ordinarily resident in Singapore.[21] Apart from holding an Employment Pass and working in Singapore, the Father is the director of five Singapore registered companies.[22] The children, who are under the Father's sole care and control, are studying in Singapore.[23] The Mother reiterated that the Father had been extremely evasive whenever her solicitors reached out to him about the children's access arrangements and believed that the Father was evading personal service of the documents.[24]

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17 Mother's Affidavit (OAG 74) dated 9 April 2025 (A1) at [19].

18 Mother's Affidavit for Substituted Service (OAG 74) dated 29 April 2024 (A2) at [8].

19 Mother's Affidavit for Substituted Service (OAG 74) dated 29 April 2024 (A2) at [8].

20 Mother's Affidavit for Substituted Service (OAG 74) dated 29 April 2024 (A2) at [8].

21 Mother's Affidavit for Substituted Service (OAG 74) dated 29 April 2024 (A2) at [9].

22 Mother's Affidavit for Substituted Service (OAG 74) dated 29 April 2024 (A2) at [10].

23 Mother's Affidavit for Substituted Service (OAG 74) dated 29 April 2024 (A2) at[10].

24 Mother's Affidavit for Substituted Service (OAG 74) dated 29 April 2024 (A2) at [29].

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11 On 2 May 2025, the learned Assistant Registrar Kelyn Lee granted an order for substituted service via AR registered post to the registered address of the Father's Singapore businesses and virtual service to the Father's email and Singpass app inbox. The substituted service was effected by the Mother's solicitors on 7 May 2025 at Singapore.[25]

12 On 3 June 2025, the Father filed FC/SUM 1244/2025 ("SUM 1244") seeking the following prayers:

> 1. A declaration that this Honourable Court lacks jurisdiction to hear and determine the present proceedings.
>
> 2. The purported service of the court papers on the Respondent to be set aside as invalid and improper.
>
> 3. That the Applicant's application be dismissed with costs.

13 In his supporting affidavit, the Father states, *inter alia*, as follows:[26]

> The children are habitually resident in China and are enrolled in school there. They have no legal status, domicile, or habitual residence in Singapore. The children are not even in Singapore at the moment.

14 On 27 June 2025, the Mother filed FC/SUM 1458/2025 ("SUM 1458") seeking an interim injunction to restrain the Father from removing the children from Singapore pending the final determination of the proceedings.

15 In her application for an urgent *ex parte* injunction, the Mother highlighted that all evidence points to the children being presently resident in Singapore, contrary to the Father's assertion that the children are residing and studying in China.[27] Among other things, the children are enrolled in an

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25 Affidavit of Ong Jing Wei, Rachel dated 20 May 2025 at [3].

26 Father's Supporting Affidavit (SUM 1244) dated 31 May 2025 (R1) at [3(b)].

27 Mother's Skeletal Submissions in support of Injunction dated 27 June 2025 at [9].

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international school in Singapore[28] and public posts from the school show the children's continued participation in school activities in Singapore as recently as May 2025.[29] The Father has also applied for Singapore Permanent Residence for himself and the children.[30] Despite being asked to confirm the children's location, school, and caregiver status, the Father has not provided any reply.[31] The Mother said that she had not seen the children since 23 February 2025 and was worried that they might be spirited away.[32]

16 On 28 June 2025, the learned District Judge Amy Tung granted an interim injunction and ordered the Father to state with particularity the location of the children and their caregivers.

17 Subsequently, the Father's application in SUM 1244 came up for hearing before me. Even up to this point, the Father has refused to disclose the whereabouts of the children. Upon my query, the Father's counsel clarified that prayer 1 is an application for stay of proceedings on the ground of *forum non conveniens* and that neither prayer 1 nor prayer 2, if granted, would lead to a dismissal of the Mother's application as sought in prayer 3. In light of the Father's clarifications, there were in substance two applications to be determined.

18 The first was prayer 2, which was the Father's application to set aside the service of the court papers on the ground that he was out of jurisdiction when

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28 Mother's Skeletal Submissions in support of Injunction dated 27 June 2025 at [9(a)].

29 Mother's Skeletal Submissions in support of Injunction dated 27 June 2025 at [9(f)].

30 Mother's Skeletal Submissions in support of Injunction dated 27 June 2025 at [9(d)].

31 Mother's Skeletal Submissions in support of Injunction dated 27 June 2025 at [9(g)].

32 Mother's Skeletal Submissions in support of Injunction dated 27 June 2025 at [11].

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the substituted service was effected. This was dealt with as a preliminary issue and parties agreed that it would be helpful to obtain from the Immigration and Checkpoint Authority ("ICA") the entry and exit records of the Father and the two children from April 2025 to May 2025, which counsel for the Father helpfully facilitated. To save time and costs, parties also agreed for the ICA's reply to be tendered to court via correspondence without the need for the Father to file an affidavit exhibiting the same.

19 The second was prayer 1, which was the Father's application to stay the proceedings on the ground of *forum non conveniens*.

20 I heard the applications sequentially and dismissed both prayers with costs fixed at $3,000 to the Mother. As the Father has appealed against part of my decision *vide* HCF/RAS 26/2025 filed on 2 September 2025, I now provide my written grounds of decision incorporating my brief grounds with elaborations where required.

Application to set aside service of process

21 The Father says that when the court papers were served on 7 May 2025 by way of substituted service in Singapore, he was physically present in China.[33] The Father submits that where a respondent is outside of Singapore, service must be effected by way of service out of Singapore, and leave of court must be sought for such service.[34] As no leave was obtained, the substituted service effected in Singapore was defective and invalid.[35] The Father further contends

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33 Father's Supporting Affidavit (SUM 1244) dated 31 May 2025 (R1) at [4(b)].

34 Father's Supporting Affidavit (SUM 1244) dated 31 May 2025 (R1) at [4(c)].

35 Father's Supporting Affidavit (SUM 1244) dated 31 May 2025 (R1) at [4(c)]; Father's Submissions dated 16 July 2025 at [47].

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that the substituted service by way of Singpass contravened the laws and public policy of China[36] and is hence contrary to P.7, r.11(6) of the Family Justice (General) Rules 2024 ("FJGR"), which provides that "[n]othing is to be done under this Rule that is contrary to the laws of the foreign country".[37] Citing the case authority of *Humpuss Sea Transport Pte Ltd (in compulsory liquidation) v P T Humpuss Intermoda Transportasi TBK and another* [2015] SGHC 144, the Father asserts that substituted service is only allowed if it does not contravene the law of the foreign jurisdiction.[38]

22 I was not persuaded by the Father's arguments that the substituted service was defective because it was effected on a day when he was out of Singapore. It is an established principle that the effect of substituted service carried out pursuant to an order of court is equivalent for all purposes to actual service. The document will be regarded as being properly served: see *Singapore Court Practice (Lexis Nexis)* at [7.7.9] and *Singapore Rules of Court – A Practice Guide* (Academy Publishing, 2023) at [07.038].

23 In my judgment, it is immaterial that the Father was not in Singapore when the substituted service was effected. To challenge the validity of the service, the Father would have to challenge the validity of the order for substituted service itself. Hence, the issue, correctly framed, is whether there are grounds to set aside the order for substituted service.

24 Where a respondent had left Singapore before the originating process was issued, a claimant would have to first seek permission to serve the

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36 Father's Submissions dated 16 July 2025 at [49] and [51].

37 Father's Submissions dated 16 July 2025 at [52].

38 Father's Submissions dated 16 July 2025 at [51].

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originating process out of jurisdiction before resorting to substituted service: see *Consistel Pte Ltd and another v Farooq Nasir and another* [2009] SGHC 82 (at [30]) ("*Consistel*"). As noted in *Consistel* (at [35]), this general rule is subject to at least two exceptions:

> Of course, the principle stated in [30] above is a general rule to which there are exceptions. One clear exception mentioned earlier is where the defendant leaves the country in anticipation that legal proceedings will be initiated against him. In such a situation, substituted service would be warranted. Another exception is when a defendant is constantly moving from country to country such that it is impossible to serve the writ on him personally. In such a case, there is no need to apply for personal service out of jurisdiction since any attempt at personal service clearly will be futile. Substituted service will suffice. There may be other exceptions but it would be unwise to speculate. Even so, these exceptions do not detract from the force of the general principle that applying for personal service out of jurisdiction should be the first port of call for plaintiffs who have to serve a writ on defendants who are outside Singapore.

25 In the present case, it was unnecessary for me to consider whether the exceptions to the general rule apply. This is because I was of the view that there was no requirement for the Mother to seek permission to serve the originating process out of jurisdiction to begin with.

26 As explained in my brief grounds, there is no evidence to suggest that the Father had left Singapore permanently before the OAG proceedings were initiated against him on 14 April 2025. On the other hand, there is ample evidence to support the Mother's claim that the Father is ordinarily resident in Singapore. This is further corroborated by the ICA records, which show that the Father was in Singapore on 14 April 2025 when the OAG proceedings were initiated, and had made multiple trips in and out of Singapore from 15 April 2025 to 31 May 2025.

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27 The fact that the Father happened to be out of Singapore on the day that the substituted service was effected was purely fortuitous. It does not change the fact that he ordinarily resides in Singapore. That position remained unchanged even when the order for substituted service was made on 2 May 2025. There is no basis as such to set aside the order for substituted service.

28 It follows that P.7, r.11(6) of the FJGR also does not apply, since the originating process was served *within* jurisdiction *via* a valid order for substituted service.

29 For the above reasons, I dismissed prayer 2 of SUM 1244.

30 Having dealt with prayer 2, I turn now to prayer 1.

Application for stay

31 Although prayer 1 was framed as a declaration that the court lacks jurisdiction to hear and determine the present proceedings, counsel for the Father clarified that the Father is seeking a stay of the proceedings on the ground of *foreign non conveniens*.

32 It is trite that under stage 1 of the *Spiliada* test, the burden rests on the party seeking the stay to show that there is another available forum that is clearly or distinctly more appropriate than Singapore to determine the dispute. In determining which forum is more appropriate, the court takes into consideration various connecting factors, the weight of which varies with each factual matrix. A factor that proves to be the tipping point in one case might not be that important in another: see *AZS v AZR* [2013] SGHC 102 (at [11(a)]) and *BDA v BDB* 1 SLR 607 ("*BDA v BDB*") (at [24]).

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33 Where the stay application relates to proceedings involving the custody of a child, the application of the welfare principle requires the court to examine which jurisdiction is better placed to decide on the issues concerning the welfare of the child. In the seminal decision of the Family Division in *TDX v TDY* [2015] SGHC 4 ("*TDX v TDY*"), Debbie Ong JC (as she then was) observed (at [15]) as follows:

> In my view, the application of the welfare principle in a case such as the present involves the proper application of the doctrine of *forum non conveniens*, which would in turn require the court to examine which jurisdiction is better placed to decide on the issues concerning the welfare of the child. Support for this view can be found in the decision of *Re A (an infant)* [2002] 1 SLR(R) 570 ("*Re A*"), in which Lai Kew Chai J referred to the decision of the House of Lords in *De Dampierre v De Dampierre* [1988] AC 92 ("*De Dampierre*"), which was a case where the *Spiliada* principles were applied to matrimonial proceedings. The learned judge considered at [4] that when applying *De Dampierre* and the *Spiliada* principles to issues relating to a child, the central question is which forum would more effectively evaluate the best interests of the child …

34 As noted by the learned judge, the court has to take into account a host of factors in order to identify the forum that is better equipped to determine the child's best interests.[39] The relevance and weight of the factors must be decided in the light of the welfare of the child. [40]

Habitual residence of the child

35 One of the factors is the habitual residence of the child. This was a key plank of the Father's case[41] that merited some attention.

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39 TDX v TDY at [23].

40 TDX v TDY at [17].

41 Father's Submissions dated 16 July 2025 at [16] to [31]

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36 As noted in *TDX v TDY* (at [27]), the habitual residence of the child is a relevant consideration in deciding which forum is more appropriate to decide on the issues concerning a child.[42] The learned judge explained (at [33]) as follows:

> … the court of the child's habitual residence is likely to have a close affinity with and good understanding of the child's cultural background, value systems, social norms and other societal circumstances.

37 The habitual residence of the child both at the time of removal or retention and at the time of proceedings is relevant: see *TDX v TDY* (at [34]). The habitual residence is not necessarily equivalent to domicile, citizenship or nationality, but is the country to which the child is closely connected, having lived in it for some time and integrated into its community and culture. The child's habitual residence is one of factors to be decided by reference to all the circumstances of the particular case: see *TDX v TDY* (at [37], [38] & [45]).

38 To determine the child's habitual residence:

> … the court will have to consider where the child has been living and how settled she is in that country, including how integrated she is to the country in terms of the environment, education system, culture, language and people around her in that country. The court will also have to consider where her parents are habitually resident and whether one or both parents had the intention that the child should reside there.[43]

39 In the supporting affidavit, the Father averred as follows:[44]

> The children are presently habitually resident in China and are enrolled in school there. There have no legal status, domicile, or habitual residence in Singapore. The children are not even in Singapore at the moment.

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42 TDX v TDY at [27].

43 *TDX v TDY* (at [43]).

44 Father's Supporting Affidavit (SUM 1244) dated 31 May 2025 (R1) at [3(c)].

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40 Apart from the bare assertion that the children are "presently habitually resident in China", the Father did not provide any detail to substantiate his claim. In my view, this omission is glaring because the evidential burden of proof lies with the Father to prove that the children are "presently habitually resident in China": see s 105 of the Evidence Act 1893 (2020 Rev Ed). The Father did not provide any evidence as to when the children were taken out of Singapore, let alone how well they have integrated back in China.

41 Furthermore, the Father's claim that the children are "presently habitually resident in China" is contradicted by the ICA records, which show that the children were present in Singapore throughout most of April and May 2025. In fact, I found the Father's claim that "the children are not even in Singapore at the moment" to be rather misleading, as the ICA records show that the children were in Singapore on 31 May 2025, the same day that the Father affirmed his supporting affidavit in Singapore.[45]

42 Further, the immigration records from the Chinese authorities dated 9 June 2025 also contradicted the Father's claim. The records show that the children returned from China to Singapore on 1 February 2025 and had not returned to China since.[46]

43 There is also no evidence from the Father to shed light on the circumstances leading to the children being relocated back to China, whether he has obtained the consent of the Mother to relocate them and the whereabouts of the children. These are basic facts that the court would need to make a proper assessment of the children's habitual residence.

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45 See jurat of Father's Supporting Affidavit (SUM 1244) dated 31 May 2025 (R1).

46 Mother's Affidavit in Support of Injunction at [10(e)] and TAB E.

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44 In the absence of such evidence, I was left with the Mother's evidence which shows that sometime in August 2023, the Father proposed for the children and the Mother to relocate to Singapore from China so that the children could benefit from an education in Singapore.[47] The family relocated to Singapore sometime in 2023.[48] From August 2023 to February 2024, the children were studying at [School A][49] and in August 2024, the children were studying at [School B].[50] The Mother also produced evidence to show that the children were in attendance at the school's events and activities as recent as May 2025[51] and that they were still enrolled in [School B] as at 5 June 2025.[52] The Mother also averred that she did not know about or consent to the Father removing the children from Singapore.[53]

45 As it stood, there was simply insufficient evidence to substantiate the Father's claim that the children are "presently habitually resident in China". On the contrary, the available evidence pointed to the children being habitually resident in Singapore as at the date of his application to stay the proceedings.

46 Consequently, the habitual residence of the children did not favour a stay of the proceedings.

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47 Mother's Affidavit dated 9 April 2025 at [10].

48 Mother's Reply Affidavit dated 11 July 2025 at [8].

49 Mother's Reply Affidavit dated 11 July 2025 at [9(a)].

50 Mother's Reply Affidavit dated 11 July 2025 at [9(b).

51 Mother's Reply Affidavit dated 11 July 2025 at [9(b)].

52 Mother's Reply Affidavit dated 11 July 2025 at [10(c)].

53 Mother's Affidavit in Support of Injunction at [15].

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Public interest and res judicata[54]

47 The Father submits that the dispute has already been adjudicated in China and it is not in the public interest of Singapore to permit re-litigation of a matter already determined by a competent foreign court.[55]

48 The Father says that the parties have already resolved the same dispute in China. On 9 July 2024, they entered into a mediation agreement in China, which was converted into a court order. The agreement granted the Mother rights of access to the children.[56] On 14 August 2024, the Mother commenced enforcement proceedings in China claiming that he had failed to comply with the mediation order.[57] On 20 March 2025, the Chinese court ruled that he had fulfilled his legal obligations in compliance with the mediation order and the Mother's enforcement application was dismissed.[58]

49 The Father submits that continued proceedings in Singapore will give rise to a multiplicity of proceedings and a real risk of conflicting judgments.[59] It would not be in the children's welfare to have two sets of proceedings and orders on care and control.[60] There is also a risk that continuing with OAG 74 would offend international comity.[61]

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54 Father's Supporting Affidavit (SUM 1244) dated 31 May 2025 (R1) at [5].

55 Father's Supporting Affidavit (SUM 1244) dated 31 May 2025 (R1) at [5].

56 Father's Supporting Affidavit (SUM 1244) dated 31 May 2025 (R1) at [3(c)].

57 Father's Supporting Affidavit (SUM 1244) dated 31 May 2025 (R1) at [3(f)].

58 Father's Supporting Affidavit (SUM 1244) dated 31 May 2025 (R1) at [3(g)].

59 Father's Submissions dated 16 July 2025 at [33].

60 Father's Submissions dated 16 July 2025 at [34].

61 Father's Submissions dated 16 July 2025 at [35].

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50 The Father's claim is disputed by the Mother who asserts that the Chinese court did not make any determination as to whether the mediation agreement had been breached. As a matter of procedural formality, the matter was closed as the enforcement suit had remained pending for more than 6 months and the trial period had expired.[62]

51 In my judgment, the doctrine of *res judicata* is inapplicable. As discussed in Debbie Ong, *International Issues in Family Law in Singapore* (Academy Publishing, 2015) at page 244:

> Custody disputes are unique because the paramount consideration is the welfare of the child. It is not surprising that despite a prior foreign custody order, the court, guided by the welfare principle, may be willing to re-open a custody dispute and determine the case on its merits. The Privy Council, in *Mark T Mckee V Evelyn McKee*, a case on appeal from the Supreme Court of Canada, had held years ago that it is the negation of the welfare principle not to enter into the merits of the question afresh, even where there is a foreign order in existence. Lord Simonds held:
>
> > But it is the negation of the proposition, from which every judgment in this case has proceeded, namely, that the infant's welfare is the paramount consideration, to say that where the trial judge has in his discretion thought fit … to examine all the circumstances and form an independent judgment, his decision ought for that reason to be overruled. Once it is conceded that the court of Ontario had jurisdiction to entertain the question of custody and that it need not blindly follow an order made by a foreign court, the consequence cannot be escaped that it must form an independent judgment on the question, though in dong so it will give proper weight to the foreign judgment. What is the proper weight will depend on the circumstances of each case.

52 It is clear from the above passage that the Singapore court is not bound by a prior foreign custody order as it is required under the welfare principle to

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62 Mother's Submissions Opposing Stay at [78].

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examine the merits of the case afresh. Hence, even if the dispute had been adjudicated in China, the Father's arguments, premised on the doctrine of *res judicata*, could not succeed.

53 Moreover, family circumstances involving children can change over time. Unlike final civil judgments, custody orders are not final and conclusive in the strict sense as they are subject to variation when there has been a material change in circumstances affecting the welfare of the child. It is clear from the available evidence that circumstances have changed since the mediated agreement, which necessitates a review of the custody and access arrangements. As such, the Mother's application in OAG 74 is not a re-litigation, nor does it offend the principle of international comity.

Conclusion

54 As noted earlier, a key plank of the Father's case is that the children are habitually resident in China. However, the Father's supporting affidavit is not only devoid of material particulars, but is also misleading. In his written submissions, he emphasised that the children are "physically present in China during these proceedings"[63], but that in turn begs the question of how they came to be there when there was an injunction restraining him from removing the children from Singapore.

55 I also found no merit in the Father's submissions premised on public policy and the doctrine of *res judicata*. Indeed, it is troubling that the Father has refused to disclose the whereabouts of the children,[64] thereby effectively cutting

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63 Father's Submissions dated 16 July 2025 at

64 Father's Submissions dated 16 July 2025 at [19].

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off the Mother's access to them. Clearly, there are compelling reasons to review the custody and access arrangements.

56 Balancing all factors, I found that the Father has not discharged the burden of showing that China is clearly or distinctly a more appropriate forum than Singapore. In the circumstances, there was no necessity to proceed to stage two of the *Spiliada* test: *BDA v BDB* at [34].

57 For the above reasons, I dismissed the stay application.

Chia Wee Kiat
District Judge

Mr Justin Chan and Ms Rachel Ong (Justin Chan Chambers LLP)
for the applicant;
Mr Clement Yong and Ms Nicole Thong (Beyond Legal LLC)
for the respondent;

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