

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGFC 125

FC/OSM 184 of 2023
HCF/DCA 80 of 2025

Between

XUP

... Applicant

And

(1) XUQ
(2) XUR

... Respondents

FC/OSM 286 of 2023
HCF/DCA 81 of 2025

Between

XUQ

... Applicant

And

(1) XUP
(2) XUS
(3) XUT

... Respondents

JUDGMENT / GROUNDS OF DECISION

[Mental Capacity Act 2008] [Mental Capacity] [Best Interest of P] [Deputies]
[Appointment of Deputies] [Selection of persons for appointment as Deputies]

TABLE OF CONTENTS

INTRODUCTION.....	1
FACTS.....	4
THE PARTIES	4
BACKGROUND TO THE DISPUTE	4
<i>P's relationships with P's Ex-Wife's and P's Sister and their relationship with each other.....</i>	<i>4</i>
<i>P's stroke and subsequent hospitalization.....</i>	<i>8</i>
<i>Parties contact with P</i>	<i>9</i>
<i>P's Assets, Financial Matters and Business Affairs.....</i>	<i>11</i>
<i>History of MCA Proceedings</i>	<i>13</i>
PARTIES CASES AND ISSUES TO BE DETERMINED	21
ISSUE 1: P'S MENTAL CAPACITY	22
ISSUE 2: WHETHER P IS TO BE CARED FOR IN A NURSING HOME OR IN HOME CARE.....	23
ISSUE 3: CHOICE OF DEPUTY.....	26
DOCUMENTATION ON P'S PAST WISHES	28
P'S BELIEFS AND VALUES	29
PARTIES' BEHAVIOUR	31
ISSUE 4: SALE OF P'S CONDOMINIUM APARTMENT.....	39
COSTS.....	40
CONCLUSION.....	42

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**XUP
v
XUQ & XUR**

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XUP & XUS & XUT**

[2025] SGFC 125

FC/OSM 184 & 286 of 2023
HCF/DCA 80 & 81 of 2025
District Judge Jason Gabriel Chiang
17 March, 21 April, 30 May, 30 June and 8 July 2025

14 November 2025

District Judge Jason Gabriel Chiang:

Introduction

1 Deputies take on the onerous duties and responsibilities of making decisions on behalf of a person who lacks mental capacity (“P”) in relation to P’s personal welfare and/or property and affairs in the furtherance of P’s best interests. Where there is a contest between parties as to who should be appointed as the deputy/deputies of P, the Court will have to decide on which person or

persons, whether they be P's family members or other persons close to P, to be appointed as the deputy/deputies of P as well as the scope of their powers.

2 The saying "*blood is thicker than water*" is often misused. The plain reading of this saying suggests that the familial bonds are stronger than other relationships. In this regard, an argument was made during the proceedings that the Court should favour the appointment of a family member to be P's deputy. However, there is recognised scholarly discourse that the original saying was actually used in the military context of describing that the "*water of the womb*" is not thicker than the "*blood of the covenant*", suggesting that one's blood covenant in battle or through adversity could be more important than a person's familial bonds.

3 While paragraph 50 of the Family Justice Courts Practice Directions 2015 (which is substantially the same as paragraph 74 of the Family Justice Courts Practice Directions 2024) does suggest that P's immediate family members, by virtue of their relationship to P, are likely to have an interest, such that they should be notified as Relevant Persons of any proceedings under the Mental Capacity Act 2008 ("MCA") relating to P, this presumption is rebuttable. Persons who are not immediate family members could very well be closer to P or concerned over the care and financial management of P for them to be considered as Relevant Persons. Whereas family members who are estranged or wholly uninvolved or unconcerned about P's care may not be Relevant Persons.

4 Similarly, the person that the Court appoints as P's deputy, who must be a Relevant Person, may be a family member, but there could potentially be a person outside of the immediate family that would better placed to be appointed

as P's deputy to serve P's best interests. The Court, thus, has to consider the specific circumstances and relationships that the proposed deputies have with P to select the right person or persons to be P's deputy/deputies.

5 The applications of FC/OSM 184/2023 ("OSM 184") and FC/OSM 286/2023 ("OSM 286") presented competing applications for the appointment of a deputy for P. OSM 184 was commenced by the ex-wife of P (the "Ex-Wife"), who had been coparenting P and P's Ex-Wife's 2 sons aged 15 and 13 with P (the "Sons") in a largely cordial manner prior to P's stroke. OSM 286 was commenced by the elder sister of P (the "Sister"), whom P also had a fairly good relationship with. P's Ex-Wife and P's Sister disagreed on the care of P and how P's property and assets should be managed. The Court had the unenviable task of deciding whom to appoint as the deputy for P or whether both P's Ex-Wife and P's Sister could work collaboratively as P's deputies and the range of powers for said deputyship that would be in P's best interest. Ultimately, after considering the evidence and parties' arguments, P's Ex-Wife was unable to convince the Court that she instead of P's Sister was better placed to be P's deputy. Instead, P's Sister evidenced consistent care of P. Hence, P's Sister was appointed as the sole deputy for P with certain specified powers. Therefore, OSM 184 was dismissed, and orders were made in OSM 286. P's Ex-Wife being dissatisfied with my decision, filed appeals against both of the decisions in OSM 184 with HCF/DCA 80/2025 and in OSM 286 with HCF/DCA 81/2025.

Facts

The parties

6 P was a Singaporean businessman who had suffered a stroke in March 2023 at the age of 48. As of the time of the decision, P was about 50 years old and was under the care of a nursing home.

7 P's Sister, also a Singaporean, was five (5) years older than him and was his only sibling. P's and P's Sister's parents had passed away quite some time prior to these proceedings.

8 P's Ex-Wife was a Singaporean woman who was about 42 years old at the time of the decision. P's Ex-Wife worked as a math tuition teacher, either working out of her residence or over zoom.

Background to the dispute

P's relationships with P's Ex-Wife's and P's Sister and their relationship with each other

9 P and P's Ex-Wife were married in July 2008. P's and P's Ex-Wife's 1st Son was born in January 2010 and then 2nd Son was born in January 2012.

10 On 5 January 2018, P filed for divorce against the Ex-Wife on the grounds of irretrievable breakdown of the marriage based on the factual scenario that the Ex-Wife had behaved in a manner that it would be unreasonable for him to stay in the marriage. In the divorce proceedings, P had alleged that there were many disagreements and quarrels between P's Ex-Wife and him, and that P's Ex-Wife would keep late nights away from P and the family. P found P's Ex-Wife to be stubborn and would have outbursts of anger and that there was a lack

of communication and understanding for his financial situation which added to his stress. Due to this, they ceased conjugal relationships since 2011 (i.e. shortly after the conception of the 2nd Son) and had slept separately since. While the Ex-Wife filed a memorandum of appearance, she indicated she was not contesting and did not file a defence to these claims.

11 The Interim Judgment was pronounced on 5 April 2018 with a consent order for all ancillary matters. Pursuant to this, P and P's Ex-Wife shared joint custody with care and control going to P's Ex-Wife and P granted liberal access to P's Sons. P was also to make monthly maintenance payments of S\$1,600 payable to P's Ex-Wife being half of the purported expenses for both of P's Sons to be paid at the start of each month. The Final Judgment for divorce was then granted on 9 July 2018.

12 P had made certain comments to friends and on social media which appeared to suggest that he believed P's Ex-Wife had an extramarital affair with a parent of one of her tuition students. During the course of proceedings, it was belatedly revealed that P's Ex-Wife had a third child, a son, who was not P's biological offspring and was aged 6 years old (the "**Little Boy**"). Based on the fact that he was born in the 1st quarter of 2019, the Little Boy would have been conceived either during P's and P's Ex-Wife's marriage or shortly after the Interim Judgment had been pronounced. As at the time of the hearings, P's Ex-Wife appeared not to be in any romantic relationship with another person. P's Ex-Wife claimed that the Little Boy would be care for by her mother on most days at her mother's residence instead of at her residence.

13 By the time that P suffered a stroke in March 2023, they had been divorced for about five (5) years. However, there was substantive evidence

provided that P and P's Wife had a cordial relationship and would still frequently converse with each other over WhatsApp. Such correspondence was, however, largely about their Sons, such as discussing meals and access arrangements. P's Wife would let P stay over at her residence in a separate bed on occasion and there was some correspondence and photographs indicating that P was comfortable around the Little Boy and would even dote on him even though he was not his child. P's Ex-Wife claims that P remained her close friend and confidant despite their divorce.

14 According to P's Ex-Wife, she also remained in constant communication with P on other matters and that P would share his thoughts on his work. Such level of discussion could not be fully evidenced by their text messages, which seemed to be centred on mundane tasks of getting food or on expected time of arrival. In any event, P appeared to be comfortable enough with P's Ex-Wife to seek a loan of purportedly S\$60,000 for his business. That being said, P also sought a loan from P's Sister. Both P's Sister and Ex-Wife were in agreement that it was P's preference to take out loans with family members and friends instead of with financial institutions for his business.

15 P and P's Sister maintained a good relationship and cordial correspondence over text messages. They would meet up to celebrate festivities together as a family. P's relationship with P's Sister appeared to be secure. P's Sister claimed that P had confided in her over his personal matters, particularly over his divorce from P's Ex-Wife and provided some examples of text messages from P updating her on the sale of the matrimonial properties and his acquisition of new residence. Given the status of their fairly close relationship, P had also facilitated P's Sister's contact with P's 2 Sons, where messages were provided evidencing that the P's 2 Sons would independently seek to speak with

P's Sister and provide her with updates. P's Sister's son was also allowed by P to utilize the facilities at P's residence. P and P's Sister would also have regular meetups for family events. While P had more frequent contact with P's Ex-Wife, these do seem to be centred around P's 2 Sons, whereas P's contact with P's Sister while less frequent, was consistent and friendly.

16 According to P's Sister, just prior to his stroke, P had voluntarily intimated to her that he was dating another woman and was in a "*long term relationship*" since sometime in 2022. P's Ex-Wife was unaware of any such person. However, since P's stroke, no such person has come forward and parties could not locate any such person.

17 Other than P's 2 Sons, P's Sister would be P's closest family member. By all accounts, it appeared that P was fairly involved in the lives of P's Sons. He would regularly spend a significant portion of the weekends with P's Sons, and this also at times involved spending time with P's Ex-Wife and the Little Boy. P would volunteer to ferry P's 2 Sons to various activities and events. P had stated over a text message that if he were to pass, he would want each of his 2 Sons to inherit half of P's Condominium Apartment. Had P's 2 Sons been of age, strong consideration would have been given to them potentially being P's deputies. However, P's eldest Son was still about half a decade away from reaching the age of majority.

18 According to P's Sister, for reasons best known to P's Ex-Wife, she had always acted in a hostile and antagonistic manner towards P's Sister. Prior to P's stroke, they had ceased all forms of communication since 2016 (i.e. about 7 years). P's Ex-Wife's WhatsApp messages to P's Sister over P's care do evidence seemingly unprovoked rudeness on P's Ex-Wife's side. P's Ex-Wife

conversely alleged that P's Sister held animosity towards her for P's Sister's perception over how P's Ex-Wife's martial relationship with P had fallen apart.

19 P's Sister claimed that she and her family used to maintain a close and loving relationship with P's 2 Sons, but given P's Ex-Wife involving them in Court proceedings, that this relationship has since soured. P's Sister, however, remained open with interacting with P's 2 Sons.

P's stroke and subsequent hospitalization.

20 On 23 March 2023, P suffered sudden onset of right-sided weakness (i.e. hemiplegia) and difficulty talking. He was admitted to National University Hospital ("NUH") where he was diagnosed with a left-sided haemorrhagic stroke. An emergency craniectomy was conducted. A 2nd surgery was also conducted on 26 March 2023 to relieve pressure in his brain. When his condition improved, he was transferred to Alexandra Hospital ("AH") on 14 April 2023 for rehabilitation. P was initially making incremental improvements post-stroke on this basis.

21 However, P had to be readmitted to NUH for an infection and swelling in June 2023, where he suffered two (2) seizures and pneumonia. He was then diagnosed with ischemic stroke. He was subsequently transferred to AH for a rehabilitative program in July 2023, and then to Crawfurd Hospital before being transferred to All Saints Home (Jurong East) ("ASH") on 9 October 2023, where he remains. P's accommodation at ASH was a non-airconditioned ward that was shared with seven (7) other residents. P's Ex-Wife had provided a portable evaporative air cooler to make his stay more comfortable.

22 When P first suffered his stroke on 23 March 2023, P's Ex-Wife was initially appointed by NUH to be P's spokesperson. However, sometime around 25 March 2023, P's Ex-Wife voluntarily relinquished this role and P's Sister was appointed as P's spokesperson. After 31 March 2023, P's Ex-Wife was purportedly not allowed to visit P for a period of time. P's Ex-Wife subsequently resumed visits with P at ASH.

Parties contact with P

23 Both P's Ex-Wife and P's Sister alleged that the other had attempted to restrict access. P's Ex-Wife alleged that P's Sister had banned her and her mother from visiting P when he was in AH. P's Sister did not deny an initial limitation of access, but maintained that P's 2 Sons were always at liberty to have access to P. According to P's Sister, there was nothing to suggest at that point in time that P's Ex-Wife and P had reconciled for P's Ex-Wife to be provided such access. P's Ex-Wife claimed that by not allowing P's Ex-Wife or her mother from accessing P during those initial periods limited P's Sons access to P as they needed to be accompanied. Such restrictions were subsequently lifted.

24 On the other hand, P's Sister alleged that P's Ex-Wife had repeatedly attempted to obstruct her and her family from visiting P at NUH and demanded that P's family members, including P's cousins, vacate the hospital ward, insisting that P's Ex-Wife be provided with the space for her alone. P's Sister alleged that it was P's Ex-Wife who initiated hostility and tried to alienate his family members from visiting him. P's Sister insisted that she consistently ensured that P's Ex-Wife and P's 2 Sons were kept informed of P's medical condition and that P's Ex-Wife blocked all correspondence from her instead.

25 P's Ex-Wife claimed that she and P's 2 Sons would visit regularly while P was at NUH, AH and ASH. According to P's Ex-Wife's recounting of events, she was very involved in P's care and that she would bring entertainment shows for P to watch and did other things to make his stay more comfortable. P's Wife further claimed that P's Sons expressed exasperation at the limitations on visitation and what they could do with P at ASH. Moreover, they did not stay near ASH and would have to travel far to visit.

26 Despite P's Ex-Wife's claims of being very concerned over P's care, subsequent records of visitation of P at ASH for the months of March and April 2025 revealed that after the filing of the initial rounds of affidavits around November 2024, P's Ex-Wife and P's 2 Sons appeared to have ceased visits and had not visited P for about half a year by the time of decision.

27 P's Ex-Wife claimed that she befriended an elderly lady whose husband was in the same ward as P and who would share updates on P's condition with her. While some WhatsApp messages were exhibited, they included only voice memos, and no recordings or transcripts were provided to verify this claim. In any event, P's Ex-Wife's position was that she was the one that best knew P and could attend to his needs, however, her interest in caring for P appeared to have waned after parties were under the impression that evidence had closed. Even if she got regular updates, by not visiting P, she was unable to perform any acts of service that she purported gave P much comfort. Additionally, P would not have had the benefit of seeing his Sons during this period of time. In contrast, records reflect that P's Sister maintained regular visitation with P throughout proceedings and remained concerned about his care.

28 For completeness, P's Sister had named NUH and AH as the 2nd and 3rd Respondents. However, when they were served on NUH and AH, they had indicated that there was "*[n]o such Patient's name*" and their representatives did not participate in any of the hearings.

P's Assets, Financial Matters and Business Affairs

29 P and P's Ex-Wife had 2 properties together when they were married, and the Interim Judgment included orders for P to transfer his rights on both properties to P's Ex-Wife, with P's Ex-Wife paying him a sum of S\$340,000. By the time of these proceedings, P's Ex-Wife had sold off the properties and was renting her residence, with the intentions of subsequently acquiring a property as her home with P's Sons and the Little Boy.

30 In or around May 2019, after P and P's Ex-Wife had divorced, P acquired a private Condominium Apartment ("P's Condominium Apartment") where he resided in till his stroke. P's Sons would also reside with P at P's Condominium Apartment during his access with them, which was usually over weekends. P's Sons were provided with an access card, passcodes and a duplicate set of keys to P's Condominium Apartment, which P's Ex-Wife was also able to use. According to P's Ex-Wife, she would stay at P's Condominium Apartment on occasion and would even conduct some of her zoom classes from his residence on Fridays and weekends.

31 P was also a businessman involved in three (3) companies involved in the care and works for automobiles, with a business partner (the "Business Partner"). The Business Partner was named as the 2nd Respondent in OSM 184 but chose not to participate in proceedings. Based on the accounts provided by both sides, it appeared that the companies were not doing particularly well and

may have been running losses. Hence, the reason why P was seeking loans from P's Sister and P's Ex-Wife.

32 Besides P's Condominium Apartment and businesses, P had 2 other assets which parties had significant dispute over: P's Car and P's Mobile Phone.

33 When P suffered a stroke, P's Car had been left parked somewhere around a temple. P's Ex-Wife was informed of this and proceeded to remove P's Car from this location and drove it back to her residence. Thereafter, P's Ex-Wife continued to make the hire-purchase instalment payments for P's Car and would use it every now and then purportedly to maintain P's Car and to ferry P's Sons. P's Sister did not take issue over the removal of P's Car from the temple so as to not incur further charges or the vehicle being towed but took issue that P's Ex-Wife had refused to account for P's Car until P's Sister had to engage a private investigator and provided evidence that it was in P's Ex-Wife's possession and that she used it fairly frequently. When the Court directed that more information over the use of P's Car, it was belatedly revealed that in the midst of proceedings, without seeking an interim order, P's Ex-Wife unilaterally decided to sell P's Car back to the car dealership. Due to the outstanding hire purchase sums, there was purportedly no balance value from the sale to be credited to P.

34 With regard to P's Mobile Phone, P's Ex-Wife also initially failed to account for it. In the course of proceedings, it was revealed that P's Ex-Wife had made the unilateral decision to give P's Mobile Phone to P's eldest Son and transferred the mobile line into her own name for his personal use. Additionally, P's Ex-Wife had exhibited transcripts of WhatsApp text messages between P and herself, which she claimed came from P's Mobile Phone and not hers as

such information was no longer available on hers. When P's Sister applied to inspect the original messages on P's Mobile Phone to consider whether she was going to challenge the authenticity of the messages, P's Ex-Wife claimed that it was not in her possession, custody or power as she had given it to P's eldest Son, even though she had utilized the same to produce transcripts of her and P's past correspondence.

35 With regard to P's maintenance for P's 2 Sons, he was obliged by the Interim Judgment to make monthly payments for the maintenance of P's Sons of S\$1,600 every month, P's Ex-Wife claimed that she initially reduced it down to S\$1,200 and then did not insist on its payment, when she knew that P was tight on cash around November 2022. P's Ex-Wife claimed to have instead provided P with some money for his meals with P's Sons when he brought them out, but there was no supporting documentation for this. P's Ex-Wife had initially sought for the power as P's deputy to rent out P's Condominium Apartment and for the rental proceeds after deducted S\$1,000 for P's expenses, to be deposited into a joint account between P and P's 2 Sons. When asked whether this was to fulfil P's maintenance requirements for P's Sons, who were to be considered as P's dependents, or whether this was effectively P's Ex-Wife gifting money due to P to P's Sons, which is not something a deputy is allowed to do, P's Ex-Wife withdrew this request. She further took the position that she would not be seeking that such maintenance order be enforced against P. It is noteworthy that if that was pursued, that would have placed P's Ex-Wife in conflict of interest against P's interests.

History of MCA Proceedings

36 OSM 184 was commenced by P's Ex-Wife on 15 June 2023, naming P's Sister and the Business Partner as the 1st and 2nd Respondents and sought a

declaration that P lacked mental capacity in relation to decisions relating to both personal welfare and property and affairs and that P's Ex-Wife be appointed to be P's sole deputy in all matters. The powers sought included general financial management of P's funds, making insurance claims and the leasing out or sale of P's Condominium Apartment. This application was filed without a doctor's affidavit and also sought, among other things, an interim order pursuant to section 36 of the MCA that:

- (a) NUH and AH to provide medical reports on P to P's Ex-Wife and P's Ex-Wife be granted access to P's medical records;
- (b) P's 2 Sons, P's Ex-Wife and her mother be permitted to have liberal, unsupervised access to P and AH or other facilities P is transferred to;
- (c) P's Sister be prohibited from accessing P's Condominium Apartment; and
- (d) P's Sister and her spouse are to account for all property and documents belonging to P, which they obtained access to from 20 April 2023 to the date of the application.

37 As mentioned in paragraph 31 above, P's Business Partner did not participate in proceedings. P's Ex-Wife and P's Sister attended a 1st case conference for the matter before District Judge Colin Tan ("DJ Colin Tan") on 4 August 2025. DJ Colin Tan declined to make any of the interim orders at this juncture. With regard to medical reporting and records, as NUH and AH were not parties to proceedings, no orders could be made against them. With regard to access, it was questionable whether P would even know he had visitors. In

any event, there was no dispute over P's 2 Sons being able to see P and given their age, they would be able to see P without having P's Ex-Wife or her mother present. Given parties disputed positions, DJ Colin Tan decided that it would be difficult to say with great confidence that such visits from P's Ex-Wife and her mother should be allowed without delay and declined making interim orders in this regard. As P's Sister indicated that she intended to make a cross-application, directions were given by DJ Colin Tan on its filing.

38 OSM 286 was then filed by P's Sister on 30 August 2023, naming P's Ex-Wife, NUH and AH as the 1st to 3rd Respondents. NUH and AH did not participate in these proceedings. P's Sister also sought a declaration that P lacked mental capacity in relation to decisions relating to both personal welfare and property and affairs and that P's Sister be appointed to be P's sole deputy in all matters. This application was filed with a doctor's affidavit on P's lack of mental capacity and also sought an interim order that:

- (a) NUH and AH to provide medical reports on P and P's Sister be granted access to P's medical records;
- (b) P reside with P's Sister or in a nursing home at P's Sister's discretion;
- (c) P's Sister be the sole person to deal with medical social workers for P and to make enquiries;
- (d) P's Ex-Wife be excluded from P's Condominium Apartment;
- (e) an account for all of P's property held by P's Ex-Wife and to hand them over to P's Sister; and

(f) P's Ex-Wife "*shall not question [P's Sister] about or [sic] interfere with the decision that would be made by [P's Sister]*".

39 At the 2nd case conference and 3rd case conference before DJ Colin Tan on 8 September and 27 October 2023, more time was requested for certain filings which were allowed with a costs order of S\$400 made against P's Ex-Wife for delay. Further requests for fixing were filed and allowed before Parties were fixed for a 4th case conference before me on 6 December 2023 as DJ Colin Tan had retired. Given what parties raised, I directed for the filing of summonses for the outstanding issues and fixed a hearing on 10 January 2024.

40 On 5 January 2024, P's Ex-Wife filed FC/SUM 61/2024 ("SUM 61") for leave to file further affidavits and FC/SUM 90/2024 ("SUM 90") for the medical examination of P and the preparation of a home care suitability report. At the 5th case conference on 10 January 2024, directions were provided for the necessary filings for the summonses. At the 6th case conference and hearing of SUM 61 on 6 February 2024, orders were granted for a further affidavit to be filed and directions were provided for this filing. On 7 February 2024, P's Ex-Wife filed her affidavit and P's Sister filed her reply affidavits on 13 February 2024.

41 At this 7th case conference and hearing of SUM 90 on 19 March 2024, I heard parties on the issue of the interim orders being sought. I pointed out that as explained in *Goh Tze Chien v Tan Teow Chee & Anor* [2024] SGHC 1 ("Goh Tze Chien") and *ULP & Ors v ULS* [2018] SGFC 43, medical assessments of P should not be ordered under an interim order pursuant to section 36 of the MCA. Instead, it would require P to be named as a party and the Court making an order for P to undergo medical examination. Upon request,

the matter was stood down for instructions to be taken. After which, the Ex-Wife withdrew the application and ordered costs of S\$2,500 payable by P's Ex-Wife to P's Sister. I directed parties to consider whether any further applications needed to be filed or whether they would agree to updated medical reporting on P and fixed timelines for the exchange of proposals.

42 At the 8th case conference on 16 April 2024, I repeated my observations that the medical report appeared to be done shortly after P suffered a stroke and that there was a fair possibility of significant improvements in the year after stroke and asked parties to consider whether they would agree with each other to get an updated medical report on P's mental capacity. Both P's Ex-wife and P's Sister had attested to noticing improvements in P's condition where P appeared to make some cogent forms of communication. Hence, there was an in-principle agreement to get such an updated report. Subsequent to this, the matter was adjourned a few times for the necessary work done to get an updated medical reporting and I had seen P's Ex-Wife's for the 9th case conference on 14 May 2024 as a request to refix hearing was applied and approved just before this case conference. A further request for refixing was allowed adjourning the next hearing from 18 June to 16 July 2024.

43 At the 10th case conference on 16 July 2024, by consent, I ordered that: *“[t]hat [the doctor how had been treating P at NUH], care of National University of Singapore, NUH, produce an updated medical report and doctor's affidavit on the current condition of [P] for the court's purpose of determining the necessary mental capacity orders (i.e. deputyship and level and preference of care) and that [P's Sister] be authorized to receive said medical report and doctor's affidavit to be filed in proceedings.”* Through subsequent correspondence in OHRRs, several adjournments were granted for the doctor

assessing P to further review the appropriate care necessary given P's condition and his Affidavit was eventually filed on 12 December 2024, where it was confirmed that P continued to lack mental capacity and that he could be cared for in a Nursing Home (i.e. low intensity level healthcare facility) or at home, provided that there were at least 2 dedicated caregivers who were able to give full time care and modifications to be made by recommendation by an occupational therapist.

44 At the 11th case conference on 28 January 2025, I saw parties and gave directions for the necessary filings of written submissions for the hearing of both OSM 184 and 286 by 10 March 2024 and this direction was duly complied with.

45 At the 1st half-day Hearing on 17 March 2025, I heard parties for their oral arguments and provided a list of 11 matters for parties to address by the filing of supplementary affidavits by 14 April 2025 and for a further hearing 21 April 2025. Parties filed their affidavits on these matters on 15 April 2025, after a request for extension of time was filed the day before and approved.

46 At the 2nd half-day Hearing on 21 April 2025, I noted that P's Sister had considered her husband and son to be relevant persons, but their consents had not been filed, and I directed this to be corrected, which was done on 23 April 2025. At this hearing, P's Sister also raised issues relating to consistency of positions taken by P's Ex-Wife's counsel in an Other Hearing Related Request ("OHRR") and P's Ex-Wife's tenancy agreement that had been disclosed in the P's Ex-Wife's affidavit filed on 15 April 2025. There were also issues of the authenticity of documents and purported new allegations made. Directions were provided to follow-up on this, as well as an additional list of concerns was raise with parties to address and the matter was adjourned for a further hearing on 30

May 2025. Consequentially, both P's Sister and P's Ex-Wife filed their further affidavits on 30 April 2025.

47 On 14 May 2025, P's Ex-Wife filed an OHRR requesting to file an affidavit to reply to P's Sister's Affidavit filed on 30 April 2025 on purported new matters raised. A reply affidavit by P's Ex-Wife was directed to be filed by 19 May 2025 and for parties to make arguments as to whether any portions of P's Sister's Affidavit filed on 30 April 2025 needed to be expunged. Then on 16 May 2025, P's Sister filed an OHRR reserving the position to apply to expunge portions of P's Ex-Wife's Affidavit. P's Ex-Wife's further affidavit was this filed on 19 May 2025. Then on 22 May 2025, P's Sister filed an OHRR taking objection to P's Ex-Wife's affidavit and seeking that it be wholly expunged, but this position was subsequently adjusted to cover specific paragraphs. P's Ex-Wife filed a further OHRR on 23 May 2025 on their objections. The Court replied, retaining the hearing on 30 May 2025 for parties to address their issues to the Court. Supplementary Written Submissions were filed by P's Ex-Wife on 26 May 2025 and P's Sister on 29 May 2025.

48 At the 3rd half-day Hearing on 30 May 2025, I allowed P's Ex-Wife's Affidavit but reserved costs on it. P's Sister raised the issue of not being able to verify the authenticity of certain text messages as P's Ex-Wife had claimed that the messages on her phone had been lost as she had changed phones and refused for P's Mobile Phone, which was held by P's eldest Son, to be inspected to verify the authenticity of the messages. I did not allow any further discovery but allowed parties to make arguments on conduct of parties for final oral submissions.

49 There was also an issue in relation to paragraph 18.3 of the Ex-Wife's affidavit filed on 19 May 2025 in relation to lawyer's conduct. It was alleged that there was an inconsistency in P's Sister's evidence given that her lawyer failed to mention his call with an officer of the ASH in an email sent by him to that officer of ASH. P's Sister's lawyer took issue with the suggestion that he had not made this call and that it ran afoul of Rule 39 of the Legal Profession (Professional Conduct) Rules 2015 by not giving him forewarning of an allegation made against solicitor. I allowed P's Sister's lawyer to file an affidavit by 6 June 2025 in response to this issue to place his clarification on record. I then finished hearing further oral arguments from both P's Ex-Wife and P's Sister on the main matter and reserved judgment for 30 June 2025.

50 After the hearing, on 6 June 2025, P's Sister's lawyer file his affidavit confirming that he made a call to the specific officer in question of ASH on 29 April 2025 and had a partial audio recording of the call, which was provided with a transcript. On 12 June 2025, P's Ex-Wife's lawyer filed an OHRR to enclose their correspondence with P's Sister's lawyer to state that there were no allegations of misconduct made against lawyer, and that it was just the Ex-Wife's observations. On 17 June 2025, P's Sister's lawyer replied with an OHRR for completeness on the correspondence up to 13 June 2025, which rejected this clarification provided by P's Ex-Wife and that P's Sister's Counsel was prepared to address at the start of the further hearing.

51 Then on the 4th half-day Hearing on 30 June 2025, I allowed each side's lawyers to state their position on the aforementioned issue for the record. I then rendered decision in favour of P's Sister and went through with parties on my oral grounds of decision. I heard parties on costs and disbursements and ordered an order for costs of S\$20,000 payable by P's Ex-Wife to P's Sister, but for the

costs to be equally split between OSM 184 and OSM 286 and directed parties to correspondence on disbursements. However, I reserve the making of the final orders till 8 July 2025, as I required P's sister to finalize a draft copy of the orders and the scope of powers of deputyship.

52 At the 5th half-day Hearing on 8 July 2025, final orders were made and I recorded the agreement on disbursements and included a roughly half share of these disbursements into each of the costs orders in OSM 184 and OSM 286.

53 Being dissatisfied with my decision P's Ex-Wife filed HCF/DCA 80/2025 in relation to my decision in OSM 184 and HCF/DCA 81/2025 in relation to my decision in OSM 286 on 18 July 2025 with new lawyers.

54 As of 17 July 2025, P's Ex-Wife filed a Notice of Change of Solicitors in both proceedings appointing Covenant Chambers LLC to replace Lexcompass LLC. This set of new counsel are representing P's Ex-Wife for the appeals.

Parties Cases and Issues to be determined

55 As previously mentioned, both P's Ex-Wife and P's Sister sought for a declaration that P lacked mental capacity to make decisions in relation to P's personal welfare and property and affairs and that they each desired to be appointed as P's sole deputy.

56 P's Ex-Wife further sought that P be moved from a nursing home to reside in her rented residence and to be cared by her and a domestic helper. Additionally, she wanted P's Condominium Apartment to be preserved for P's 2 Sons and that it be rented to generate income.

57 Conversely, P's Sister sought for P to remain at ASH. With regard to P's Condominium Apartment, she was seeking to sell it if necessary to meet P's needs.

58 In these 2 OSMs, the key issues that required the Courts determination were:

- (a) whether P lacked mental capacity;
- (b) who should be P's deputy/deputies; and
- (c) what powers should be granted for such deputyship.

Issue 1: P's Mental Capacity

59 I do agree with P's Ex-Wife's submissions that pursuant to section 4(1) of the MCA, a person is determined to lack mental capacity in relation to a matter if at the material time the person is unable to make a decision for himself or herself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain. P's inability to make decisions for himself is further determined on the 4 limbs of section 5(1) of the MCA, namely:

- (a) to understand the information relevant to the decision;
- (b) to retain that information;
- (c) to use or weigh that information as part of the process of making the decision; or
- (d) to communicate his or her decision (whether by talking, using sign language or any other means).

60 The Court of Appeal in *Re BKR* [2015] SGCA 26; [2015] 4 SLR 81 expounded that the test in s 4(1) of the MCA has a functional component: on P being unable to make decisions and a clinical component: on this inability being due to a form of mental impairment.

61 Given the most recent reporting by P's doctor, it was undisputed that P lacked the ability to make decisions on all 4 facets under section 5(1) of the MCA for both personal welfare and property and affairs as a result of left-sided haemorrhagic stroke. Hence, both functional and clinical components were satisfied. Thus, a declaration was ordered that P lacked mental capacity in relation to decisions relating to both P's personal welfare and property and affairs.

62 This issue was agreed to by both P's Ex-Wife and P's Sister. The main contention was where P was to be cared for, who were to be P's deputy/deputies and what powers should the deputy have, in particular whether they should be authorized to sell P's Condominium Apartment, which are addressed below.

Issue 2: Whether P is to be cared for in a Nursing Home or in Home Care

63 With regard to nursing home or home care, P's doctor had opined that P could be safely taken care at a low intensity level healthcare facility, such as a nursing home or at home with 2 dedicated caregivers who are able to provide him with full-time care and that the necessary modifications as recommended by an occupational therapist to the home be made to optimized case.

64 P's condition did not require intensive medical attention or 24-hour supervision that a nursing home would provide. While nursing homes, in general, can provide excellent care, all things being equal, if medical attention

is not regularly required, home care would be preferable, as in an ideal situation, there would be people who are familiar with P, who know how to interpret P's gestures, have a keen understanding of his preferences and attend to P's needs on a more dedicated basis. However, this hinged on whether there are appropriate measures that can be implemented to allow for such home care.

65 P's Ex-Wife had proffered that she and her domestic helper, who had received basic training on caring for a person in P's condition, could care for P and that her mother, who would visit often, could also assist. She has also indicated that she intends to employ an additional caregiver. P's Ex-Wife further claimed that she and her mother had prior experience caring for her late father who also had similar issues.

66 Because P's Ex-Wife is seeking to care for P at her home, it would not be unreasonable for the Court to insist that a party be obliged to engage a domestic helper, or 2 domestic helpers if their financial circumstances allow for it. P's Ex-Wife claimed that she and her domestic helper who be able to serve as the 2 dedicated caregivers and was willing to hire another domestic helper. I have to take into consideration that P's Ex-Wife had a full-time job providing private tuition and there is a young child, the Little Boy, to care for. While it is alleged that the Little Boy is in the care of P's Ex-Wife's mother, the intention was for all of them to be cared for together at P's Ex-Wife's residence eventually. Moreover, I had to further take into consideration that the current domestic helper was already assisting the family in their daily needs and was not dedicated to just P's care. There was thus, some concern as to whether P's Ex-Wife was able to satisfy the Court that there were 2 dedicated caregivers to care for P at her residence.

67 Additionally, the place that P's Ex-Wife resided at was a rental apartment. Any modifications to this residence would be subject to landlord's approval, which P's Ex-Wife stated she had for making a partition in the living room for P's care. It is unclear to what extent P's Ex-Wife is able to make further modifications to the apartment for P's care. She could not provide any strong written documentation to confirm that she had the landlord's approval to make such changes. Additionally, the apartment had not been reviewed by an occupational therapist on what would be the appropriate measures that needed to be taken to facilitate P's care. Besides the purchase of significant equipment, recommended modifications may involve the widening of doors, such as for access to the toilets and bathrooms or installation of handles and ramps. Moreover, P's Ex-Wife had moved several times since the divorce and had hoped to purchase a new permanent residence in the future for her, P's Sons and the Little Boy to reside in, but had no concrete plans on that front. Hence, any stay at P's Ex-Wife's residence may be transient and further costs would need to be incurred to return the residence to its original state to the landlord when the tenancy was up and in outfitting any new residence acquired.

68 As rightfully pointed out by P's Sister, in ***WVG v WVH and another*** [2024] SGFC 14 (“***WVG v WVH***”), the Learned District Judge Shobha Nair (“**DJ Shobha**”) affirmed at [13] the fundamental principle that “*there is a need for stable and sustainable care for persons without mental capacity*”.

69 Hence, there was significant concern over whether P's Ex-Wife would be able to satisfy the necessary arrangements for P to be transferred from the nursing home into her home care. This was exacerbated by the fact that the living circumstances would not be permanent. Most importantly, whether P

could be cared for at P's Ex-Wife's residence hinged on whether she was determined to be the deputy or one of the deputies for P.

Issue 3: Choice of Deputy

70 Both P's Sister and P's Ex-Wife have sought to be named as P's sole deputy. If P's Ex-Wife were to be appointed as a deputy, because she is no longer married to P and thus not related to P by blood or marriage, pursuant to Rule 176 of the Family Justice Rules 2014 (which is substantively similar to FJGR P. 5 r. 7), permission would be required as she was not one of the categories of persons where permission is not required. Whereas, P's Sister as a blood relative, would not require such permission. However, not all siblings are close, and not all divorced parties are acrimonious. There was no question that the marriage between P and P's Ex-Wife was over, and they had not since then rekindle a romance with each other. The question was whether or not there was another existing relationship which was close enough that she may be able to better discern his needs for P's best interest than P's Sister. Hence, the facts had to be examined to determine who would be better placed to be P's deputy.

71 Both sides had relied on case law on the Court's selection of P's deputy/deputies, which are analysed below.

72 P's Sister cited the Family Division of the High Court decision in *WLR & Anor v WLT & Anor* [2023] SGHCF 24 ("*WLR v WLT*") for the importance of continuity in care and that P's welfare was to be entrusted to someone with an established history of managing P's affairs. P's Sister argued that since P suffered a stroke, she has been the one managing P's affairs and thus status quo was in favour of her being appointed as P's deputy. Status quo is indeed a significant factor. However, I have to note that P's Sister's involvement in P's

care and life occurred largely after P lost mental capacity and there has been no evidence that she was significantly involved in P's life save for visits during Chinese New Year and certain occasions, prior to him suffering a stroke. So, while it is pertinent to consider the care provided after P loss mental capacity, the Court also needed to consider the circumstances of the level of involvement and continuity of care prior to P losing mental capacity.

73 In *WVG v WWH*, also relied on by P's Sister, it was argued that the Courts should exercise caution in appointing a deputy where there were prior allegations of financial irregularities or when P had been recently divorced. This was actually a case where the plaintiff, who had been in a romantic relationship with P applied to revoke the Order appointing P's children and ex-wife as deputies on the basis that they failed to disclose her relationship with P to the Court. DJ Shobha found that there was no need to revoke the appointment as a result of this omission to the Court. The omission, while regrettable was not fatal, and maintained the previously appointed deputies as they were still found to be the more appropriate persons.

74 P's Sister also relied on the case decided in the United Kingdom of *Re Various Incapacitated Persons* [2018] EWCOP 3, which actually centred on the issue of the appointment of trust corporations as deputies. It was claimed that the key attributes of a suitable deputy included the ability to competently discharge their responsibilities, pre-existing relationship with P, financial probity and prior experience in overseeing P's affairs. P's Sister argued that this was a persuasive authority that should be applied here.

75 P's Ex-Wife relied on the case of *WBK v WBL* [2024] SLR(FC) 192, ("WBK v WBL") which was also decided by DJ Shobha in relation to the rights

and responsibilities of donees appointed under a Lasting Power of Attorney and the making of declarations on the lawfulness of certain acts. Even though this case related to donees, P's Ex-Wife relied on [25] of *WBK v WBL* where DJ Shobha made a comparison of the choice of donees to the appointment of deputies by the Court. DJ Shobha had stated in this analysis, that access to P by P's family members was something that ought to be encouraged.

76 The case law pointed out above were all valuable considerations, but overall, the role of the Court in selecting who should be P's deputy/deputies was on the basis of what would be in P's best interests. Section 6 of the MCA addresses the issue of what is in P's best interests and specifically provides at section 6(8) of the MCA that the Court should consider the following:

- (a) the person's past and present wishes and feelings (and in particular, any relevant written statement made by the person when the person had capacity);
- (b) the beliefs and values that would be likely to influence his or her decision if the person had capacity; and
- (c) the other factors that the person would be likely to consider if the person were able to do so.

77 Hence, the choice of P's deputy/deputies is analysed through this lens below.

Documentation on P's Past Wishes

78 To discern P's past wishes, other than each party giving their account, documentary evidence would be useful for the court to discern what those past

wishes were. In this case, though it was alleged by P's Sister that there had been a Will executed by P, even after an opportunity was provided for both sides to make the necessary enquiries to produce one, neither of them could provide any documentation to show that any such Will made by P was registered on the Will Registry and P's Ex-Wife further made enquiries to a law firm, Amarick Gill LLC, who had acted for P in the divorce proceedings, and they confirmed that they had not assisted in a drafting of a Will for P.

79 Both sides also confirmed that there are no records of a Lasting Power of Attorney ("LPA") executed by P and/or registered with the Office of the Public Guardian. A Will or an LPA (even if not in compliance with registration) would be documents that would help reflect on who P believed to be the appropriate persons to manage his property and affairs and also personal welfare matters if P were no longer to make such decisions.

80 Hence, besides some records of text messages and social media postings where P's past wishes could potentially be inferred, there was no strong documentary evidence on P's past or even present wishes as to who would be best to manage his personal welfare and property and affairs.

P's Beliefs and Values

81 On P's beliefs and values, P's Sister argued that P's act of initiating divorce against P's Ex-Wife indicated that he wanted nothing to do with P's Ex-Wife, save for dealing with matters relating to P's 2 Sons.

82 On this, I do note that that divorce was filed in 2018 on an uncontested basis, and while the factual circumstances surrounding the case seemed to suggest that there was some form of improper association on P's Ex-Wife's side,

this was not something alleged in the divorce filings itself. What was, however, alleged for the grounds of divorce was that P and P's Wife would have "*many disagreements and quarrels*" and P found P's Ex-Wife to be a "*stubborn and level-headed individual and does not provide room for negotiations whenever parties are having discussions*". Additionally, P had alleged that P's Ex-Wife "*also refuses to give [P] an opportunity to explain or reason himself when he made certain suggestions*" and that there would be "*outburst of anger*" by P's Ex-Wife, which would leave their issues/differences unresolved. Moreover, P took issue with P's Ex-Wife keeping "*late nights away from [P] and the family*", and that she did not "*carry out her duties as a wife*", leaving the home messy for P to clean up and do household chores even after work. As P's Ex-Wife filed no Defence in response to P's Statement of Particulars, it was deemed that these allegations were uncontested, and divorce was granted on such grounds.

83 That being said, P suffered a stroke in 2023, which was about 5 years after the divorce. During this period, P and P's Ex-Wife appeared to have a cordial relationship. However, a significant portion of the correspondence between them was on coparenting, and while there was further interactions on other financial and personal matters, it was unclear if the same difficulties P took issue with P's Ex-Wife in the divorce filings still existed and just that as they were no longer living as husband and wife that such similar issues did not arise. These issues of P's Ex-Wife not taking his views into consideration were significant when a deputy would be empowered to make decisions on behalf of P and to make them in a manner that would be consistent with P's wishes, feelings, beliefs and values.

84 P's Statement of Particulars which was then affirmed in an Affidavit of Evidence in Chief was the only strong documentary evidence as to his feelings, beliefs and values that came directly from P and had to be given due weight.

85 As stated above in *WVG v WVH*, the Court should exercise caution in appointing a deputy where there were prior allegations of financial irregularities or when P had been recently divorced. While the divorce was not recent, and there was about half a decade till P suffered a stroke, I had to take into cognisance of P's choice to sever their marital status and ties to P's Ex-Wife as husband and wife. He was the plaintiff in the divorce and there was some suggestion that he had a new romantic partner, but who does not appear to be in the scene any longer.

86 Hence, for me to consider P's Ex-Wife as P's deputy, there would need to be cogent evidence that despite the divorce, that she would be the more appropriate person to be appointed deputy.

Parties' Behaviour

87 Given that there was no other strong documentary evidence on P's wishes, feelings, beliefs and values, the Court had to consider the other factors of parties' behaviour and how this reflected on whether they could be able to handle the responsibility of making decisions on behalf of P as P's deputy/deputies that would further P's best interests.

88 I have to also take into consideration that P's Ex-Wife gave birth to the Little Boy out of wedlock. P's Sister alleged that to make P reside in the same residence with the Little Boy would present a constant reminder to P of P's Ex-Wife's infidelity. Based on P's Ex-Wife's exhibition of WhatsApp messages

and photographs, P appeared to have taken a shine to the Little Boy and appeared to have welcomed the Little Boy and P's Ex-Wife to stay over at his residence. However, the Little Boy's existence was kept secret and only revealed in proceedings when P's Sister had first raised issues in relation to this and the Court had to direct for further affidavits to be filed. P's Ex-Wife claimed that she had concealed the Little Boy's existence as she did not want to get him involved. It was notable that this was not the only concealment or obfuscation. The fact that P's Ex-Wife also had to care for the Little Boy was a significant factor for determining whether P's Ex-Wife was able to dedicate time to fully care for P at her residence. Also, given that P's Ex-Wife claimed that the original messages had been lost with the change of her phone and that she refused to allow P's Sister to inspect the authenticity of the messages on P's Mobile Phone which was in the hands of P's eldest Son, even though it was within her power to do so, this further called P's Ex-Wife's candour into question.

89 It was argued by P's Ex-Wife that her financial support for the paying of P's Car hire-purchase instalments, mortgage instalments and certain insurance premiums after he suffered a stroke was an indicator that she was being selfless in caring for P. On the other hand, P's Sister claimed are self-interested as P's 2 Sons were eventual beneficiaries of P's Condominium Apartment and Insurance Policies. On this, there was evidence presented that some of the insurance policies were for P's benefit but a significant portion of these insurance policies were also in relation to life polices for P's Sons to be able collect on after P's passing. Towards this end, in the Interim Judgment for divorce, it had been explicitly specified that P "*shall not terminate his life insurance policy with NTUC Income Insurance Cooperative And shall pay on time all necessary premium to maintain the policy for the benefit of [P's Sons] absolutely*".

90 With regard to P's Car, P's Ex-Wife appeared to have acted without authorization on multiple occasions. As mentioned earlier, when P suffered a stroke P's Car had been left unattended near a temple and P's Ex-Wife proceeded to commandeer his keys and moved P's Car to her own car park. P's Sister conceded that the moving of the car was not the issue, as it avoided P getting into trouble for it being left parked in public incurring charges. However, P's Sister complained that P's Ex-Wife had been utilizing P's Car significantly for her own purposes and this appeared to be supported by a private investigator's report ("PI Report"). This report was necessitated as P's Ex-Wife had also concealed that she was in possession of P's Car. She took inconsistent positions initially claiming not to have P's Car or car keys but subsequently revealed it when found to be untruthful given the PI Report. This was another instance where P's Ex-Wife obfuscated. P's Ex-Wife had attempted to explain on the use of P's Car, that after it had been transported over to her home, it was largely left idle, but it had to be used every now and then to run arrands with P's Sons, to ensure it was still serviceable. I accept that the occasional use of P's Car would be basic car maintenance. To determine whether P's Car had been abused by P's Ex-Wife and used for purposes other than P's care and maintenance or the care and maintenance of P's dependants, i.e. P's 2 Sons, I directed P's Ex-Wife to disclose the mileage on P's car. It was only at this point that it was subsequently revealed that P's Ex-Wife had sold P's Car back to the car dealership. This had occurred shortly after the initial affidavits were filed and parties were under the impression that no further evidence would be led. This was even though P's Ex-Wife was aware that P's Car was an issue in dispute in these proceedings. Consequentially, because P's Car had been purportedly surrendered back to the hire purchase company without any balance proceeds, P's Ex-Wife was unable to provide evidence on the mileage recorded for the use of P's Car. P's Ex-Wife's actions in this regard were concerning.

Even if P's Car was a depreciating asset, with an outstanding car loan, which P's Ex-Wife had been voluntarily paying for, this should have been raised to the court and an interim order sought on this. P's Ex-Wife's unilateral actions, without Court authorization gave me significant pause as to whether she would be an appropriate person to be appointed as deputy for P.

91 On a separate note, I did point out that whoever was appointed as P's Deputy may very well need to pursue issues on the sale of P's Car in separate legal proceedings, if necessary. However, this point did not appear to be followed up on for the eventual draft orders to authorise the deputy to take up the necessary legal proceedings in this regard.

92 With regard to P's Mobile Phone, as mentioned earlier, it was only belatedly revealed that P's Ex-Wife, who had used P's Mobile Phone to exhibit her purported WhatsApp exchange with him, had transferred the mobile phone line from P's name to her own name and had handed P's Mobile Phone to be used by P's eldest Son, who as a minor was under P's Ex-Wife's care and control. Such acts were done without seeking an interim order from the Court. Moreover, she refused to allow P's Sister's counsel to inspect P's Mobile Phone on the purported basis that it was not in her possession, when it was clearly within her power to do so, being P's eldest Son's mother, and she had independently used it to produce documentation in support of her case.

93 At the same time though, I had to acknowledge that P's Sister's actions were not all above board either. P's Sister had in the initial stages of proceedings, without Court authorization change the locks to P's Condominium Apartment. This was out of fear of P's Ex-Wife's access to the property and P's possessions therein. Additionally, as P's spokesperson to the hospital for P's

medical care (a role relinquished by P's Ex-Wife voluntarily), she had limited the access of certain persons to P and had further decided to place P in a nursing home after his discharge from the hospitals.

94 While both have acted without authorization in the past, it is noteworthy that while P's Sister's actions appear to be historical (i.e. in the past), P's Ex-Wife's behaviour continued well into proceedings. While P's Sister duly disclosed such issues in her affidavits, P's Ex-Wife had a trend of denying, obfuscating and then coming clean only when she had been found out.

95 With regard to the giving of loans to P, this was perhaps a neutral factor as both P's Ex-Wife and P's Sister claimed to have provided loans to him, but neither had any concrete documentation on this. It appeared that P had a habit of seeking loans from friends and family instead of taking loans from banks and that P's Ex-Wife and P's Sister were not the only ones who had been approached for this.

96 What was most pertinent was that it was between substantive hearings of the matter, where I had directed P's Sister to disclose visitation logs of her visits with P at ASH, that it was surprisingly revealed that P's Ex-Wife and Sons had not been visiting P. While P's Ex-Wife was allowed to file an affidavit addressing the visitation logs on 19 May 2025, and P's Ex-Wife continue to not admit to these allegations, she was unable to provide any evidence to show that she and P's Sons continue to visit P during this period.

97 Instead, P's Ex-Wife had presented reasons for the challenges in the frequency of visitation: that P's Sons were busy with studies in 2024 and 2025, that the location of the nursing home being too far off in Jurong and also there

had been prior instances of P's Sister and her husband being there when they wanted to visit and that she wanted to avoid seeing them. P's Ex-Wife also claimed that P's Sister had instructed the nurses and staff to strictly enforce their own nursing home rule not to buy food for or to feed P outside food, not to massage him or not to allow persons to obtain medical information on him and that P's Ex-Wife and P's Sons purportedly felt like they were watched closely during visits.

98 Additionally, P's Ex-Wife claimed to have befriended an elderly lady whose husband was a ward mate of P, whom she exhibited in her affidavit a log of voice memo messages. No transcripts or the audio files themselves were provided in evidence. P's Ex-Wife claimed that she would rely on this elderly lady to provide her with updates on P.

99 P's Ex-Wife's position was that P's Sons continued to try to visit in early 2025 but claimed that they were upset over the visits and conveniently stopped visiting in March 2025, where no further visitor logs could be exhibited. No documentary corroboration was provided for this, and their decision to no longer visit appears to match up with the March and April logs. It was highly probable that since the last filing of affidavits by parties in early November 2024 on the substantive matter (i.e. not related to the summonses SUM 161 and 90), visitation by P's Ex-Wife had ceased. If there had been visits over the Christmas festivities and Chinese New Year period, there would have likely been at least some photographs to support their position, but none were provided.

100 Even if P's Ex-Wife's account that she relied on updates from the elderly wife of P's ward mate, getting updates from a third party and not visiting P for what appeared to be over half a year was very troubling. The visits to P were

not only for persons to check up on P's condition, but they are meant to provide P with comfort. By not visiting P for an extended period of time, P's Ex-Wife and P's Sons could not render comfort and assistance to P. This downgraded the significance of P's Ex-Wife's evidence that she had tried to make P's stay at the nursing home more comfortable by bringing him entertainment shows and quickly attending to his needs.

101 Even if ASH had restrictions as all nursing homes have, that did not excuse the sudden lack of interest in the care of P. Given that the stated objective of P's Ex-Wife seeking sole deputyship for P, was to allow P to spend more time with P's Sons, if P's Ex-Wife was genuine in her care for P, there would not have been such a significant absence of visits for a substantial period of time.

102 On the other hand, P's Sister had presented some evidence of her visiting consistently on weekends with logs provided for March and April 2025 and further claimed that she had regularly visited P just about every weekend. The evidence of her regular visits with P could not be said to be manufactured, as parties did not have any reasonable expectation that they would have to provide further evidence in relation to this until I had directed for such logs to be disclosed. And the fact that only the March and April 2025 logs were available from ASH, does not detract from P's Sister's account.

103 While P's Sister perhaps had less evidence of frequent correspondence with P prior to him losing mental capacity, she still maintained regular contact with him and had been helping to manage his affairs since he suffered a stroke and lost mental capacity. Additionally, more regular correspondence between P

and P's Ex-Wife would have been expected as P was exercising regular access to P's Sons.

104 Additionally, while there is a potential for conflict of interest as Ms Louise's 2 Sons would be the sole beneficiaries of P's estate, i.e. P's Condominium Apartment and are beneficiaries of his life insurance policies, P's Sister does not stand to gain anything from P in her personal capacity. Additionally, if P's Ex-Wife were to pursue any enforcement of maintenance, which she is entitled to do, this would put her in conflict of interest.

105 Given, among other things, P's Ex-Wife's past conduct of concealment, and only belatedly providing information when her lies had been uncovered, her acting without authority on P's Car and Mobile Phone and the fact that P had divorced her and decided to sever their ties as husband and wife, even if they continue to coparent, I was not comfortable with appointing P's Ex-Wife as P's deputy.

106 Appointing P's Sister as P's deputy, even though they were perhaps not the closest of siblings but still maintained a good relationship, was preferable to ensure that P's best interests were well protected. P's Sister had shown consistency in care and concern for P and had been attending to P's needs dutifully.

107 With regard to the potential appointment of each of the applicants as deputies, P's Ex-Wife's Counsel cited the case of *VUW v VUT* [2021] SGHCF 41, where at [12], then Presiding Judge of Family Justice Courts, Justice Debbie Ong had found that the plaintiffs and defendants had a very difficult relationship where trust was very much lacking, and arranging for care on alternate weeks

by a deputy from 1 faction to the other would negatively impact the welfare of P. Hence, in considering whether to appoint 1 person from each faction as P's deputies, that would have to be determined on a case-by-case basis. Given the history of contentious relationships between P's Ex-Wife and P's Sister, this case was not suitable to consider such an arrangement.

108 Hence, overall, on a balance of factors, I determined that P's Sister would be the most appropriate person to be P's Deputy to make decisions for him to further his best interests. Consequentially, as P's Ex-Wife was not being appointed as P's deputy, besides the various concerns earlier raised in paragraphs 63 to 69 above, it would be inappropriate for the Court to order for home care at P's Ex-Wife's residence.

Issue 4: Sale of P's Condominium Apartment

109 With regard to the issue of P's Condominium Apartment and whether it should be sold, it is noted that that P's Sister was seeking for its sale, whereas P's Ex-Wife wanted this property to be preserved as P had intended for P's Condominium Apartment to be passed down to P's Sons.

110 In this regard, P's Ex-Wife rightfully pointed out that section 23(2) of the MCA does provide that any orders made on disposition or settlement of P's property would have to consider section 6(7) of the MCA, that the aim is to ensure that the person's property is preserved for the application towards the costs of maintenance during the person's life. So, while P's intention to have this passed down to the children is a consideration, as P's best interest extends beyond death (kindly see *BHR & Anor v BHS* [2013] SGDC 149 at [56]), the primary concern is whether there are sufficient funds for his current care and maintenance.

111 Based on the evidence presented by parties, there was insufficient evidence that renting out P's Condominium Apartment would not be sufficient to meet the payments for the mortgage and P's further nursing home needs, even with the nursing home fees were increasing as P's subsidy was being reduced.

112 In the circumstances, I did not allow for the sale of P's Condominium Apartment but allowed it to be rented out instead to generate income. I further authorized P's Sister to manage P's finances and to wind up P's businesses and to make certain reimbursements to P's Sister for P's hospitalizations in FC/ORC xxxx/2025. Such further powers do not appear to be in contention.

Costs

113 After delivering my decision with my brief oral grounds, I invited parties to submit on the issue of costs.

114 P's Sister's initial position was that costs should be awarded in favour of P's Sister to the sum of S\$80,0000 on a party-to-party ("P&P") basis. When highlighted that this quantum of costs was higher than what the High Courts had ordered in previous proceedings such as *WLR v WLT*, where the costs order was S\$40,000, P's Sister adjusted her position that such costs should be paid on a solicitor-and-client ("S&C") basis. When asked for case law to support the position, P's Sister took the position that this was under the Court's discretion. With regard to disbursements, P's Sister claimed for S\$10,070.64. This included the procurement of the PI Report, the medical records, doctor's reports and eLitigation filing fees.

115 P's Ex-Wife agreed that costs should follow the event, and that based on the proportionality for the case, that costs should be fixed at S\$15,000 instead

on a P&P basis. With regard to disbursements, they sought clarifications on the calculations.

116 With regard to whether this should be costs on a P&P or S&C basis, I note that P's Sister's counsel has not provided any case authorities on what would have escalated the costs in this case to go from a P&P basis to an S&C basis. There was no evidence of a "*without prejudice*" offer made that was more favourable that the decision I delivered or that the conduct of parties was had reached such high threshold to warrant the ordering of costs on an S&C basis. Hence, the costs order is made on a P&P basis.

117 The general benchmark for costs in MCA proceedings for a substantive half day were between S\$800 to S\$4,000, and an additional S\$800 to S\$2,000 for further half-days of hearing. That would have put the overall costs for the hearing in the range of range of S\$1,200 to S\$8,000. However, I also had to take into account the protracted nature of these proceedings.

118 Part of the protraction of proceedings was due to the obtaining of updated medical reports. The matter was heard over 3 contested half-day hearings (excluding the decision hearing and the hearing to finalize orders). The initial intention was to hear parties in the 1st hearing and then have decision hearing after hearing rebuttals in the 2nd hearing. However, by the 2nd hearing there were significant issues of requiring further documentation and/or inspection and after hearing further submissions, I needed some further information and submissions.

119 Hence, this was not a run-of the-mill type of MCA proceeding, and I had to take notice of the work done in this case, which was substantial. There were

2 rounds of Written Submissions and about 10 Affidavits had been filed, and each were fairly substantive. P's Sister was ultimately successful, save for the issue on the sale of P's Condominium Apartment, which was not significantly pressed for.

120 Additionally, I had to take into account the inconsistent positions taken by P's Ex-Wife, which required further clarifications. There were the issues of the late disclosure of the Little Boy, the sale of P's Car, the issue of P's Mobile Phone. Moreover, a significant amount of time for the oral submissions was spent disproportionately on P's Ex-Wife's counsel's arguments.

121 Taking all this into consideration, I ordered costs to the sum of S\$20,0000 payable by P's Ex-Wife to P's Sister overall. Given that there were 2 proceedings, I ordered for this costs to be apportioned equally to the amount of S\$10,000 for each application. I allowed parties to correspond on disbursements, and when they returned on 8 July 2025, parties had agreed that the disbursements were to the sum of S\$10,175.59. I ordered that such disbursements should also be equally split between the applications, for disbursements of S\$5,087.79 in OSM 184 and disbursements of S\$5,087.80 in OSM 286, payable by P's Ex-Wife to P's Sister.

Conclusion

122 Overall, the Court was put in a difficult position of determining who was best placed to be appointed as P's deputy so as to ensure that P's best interests were protected. While P's deputy need not be a family member, given the circumstances of this case, P's Ex-Wife was not more appropriate than P's Sister to be P's deputy.

123 Pertinently, if a party were to be seeking to be appointed as a deputy, they should come to the Court with clean hands, making full and frank disclosure at an early instance. Additionally, potential deputies need to exhibit their commitment to caring for P and if they were earnest in their bid to be appointed P's deputy, that such care and concern should not wane over time. As the responsibilities and duties of a deputy are significant, the Court must have significant confidence in the appointment of a deputy for P and it is the responsibility of the applicant to provide the necessary evidence to convince the Court on this.

Jason Gabriel Chiang
District Judge

Mr Bernard Chiu (Lexcompass LLC) for P's Ex-Wife;
Mr James Chai (instructed counsel) for P's Ex-Wife;
Mr Simon Tan and Mr Nikolas Wong (Attorneys Inc LLC) for P's Sister
