IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGFC 127

Divorce No 5689 of 2023 and MSS 2707/2024
HCF/DCA 97 of 2025

Between

XUH

… *Plaintiff*

And

XUI

… *Defendant*

JUDGMENT / GROUNDS OF DECISION

Family Law – custody – access, care and control
Family Law – maintenance – child
Family Law – matrimonial assets – division
Mental Capacity Act – whether litigant has the mental capacity to conduct proceedings

Version No 1: 26 Nov 2025 (17:36 hrs)

TABLE OF CONTENTS

INTRODUCTION **1**

FACTS **3**

THE PARTIES 3

THE EVIDENCE 4

ISSUES TO BE DETERMINED **6**

CHILDREN'S ISSUES **6**

THE PARTIES' POSITIONS 6

THE COURT'S DECISION 9

DIVISION OF ASSETS **16**

MATRIMONIAL POOL 18

DIRECT CONTRIBUTIONS 19

INDIRECT CONTRIBUTIONS 21

OVERALL CONTRIBUTIONS 21

ADVERSE INFERENCE 22

ORDERS ON DIVISION **24**

RECOVERY OF RENTAL AND LOAN REPAYMENT **26**

SPOUSAL AND CHILD MAINTENANCE **27**

ORDERS FOR MSS XXX/2024 ..... **29**

CODA ON THE MOTHER'S MENTAL CAPACITY TO CONDUCT PROCEEDINGS **29**

RELEVANT LEGAL PRINCIPLES ON MENTAL CAPACITY TO LITIGATE.....31

THE MOTHER WAS ABLE TO MAKE DECISIONS FOR HERSELF IN THE COURSE OF PROCEEDINGS.....34

CONCLUSION.....36

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XUH
v
XUI

[2025] SGFC 127

Family Court — Divorce No 5689 of 2023 and MSS 2707 of 2024
District Judge Kenneth Yap
13 August 2025

26 November 2025

District Judge Kenneth Yap:

1 This was an ancillary matters hearing where orders were made at the conclusion of hearing on custody, care and control, division of assets and maintenance. The Mother, being dissatisfied with the outcome, has appealed against the entirety of my decision. I had provided brief grounds at the conclusion of the hearing. I provide my full grounds herewith.

Introduction

2 The Mother filed for divorce on 28 November 2023. Through the course of the proceedings, she had failed to comply with court directions and absented herself from hearing and mediation sessions on multiple occasions. This led to the present ancillary matters being heard some 21 months after the divorce was filed on 13 August 2025. In the midst of the proceedings, the Mother also filed

Version No 1: 26 Nov 2025 (17:36 hrs)

an application under s 69 of the Women's Charter for a lump sum maintenance of $2,580,000 for herself and her children on 3 December 2024. As interim maintenance had already been awarded, I directed that this maintenance application be heard together with these ancillary proceedings, which were originally scheduled to proceed by March 2025. It bears noting that this was not the first maintenance application made by the Mother – an earlier maintenance summons (MSS XXX/2024) filed on 3 May 2024 was dismissed on 4 December 2024 due to her failure to attend the hearing on more than one occasion.

3 By way of context, there were also various allegations of family violence and harassment traded in the course of the proceedings. The Mother first filed SS XXX/2023 on 8 December 2023 seeking a personal protection order for verbal abuse by the Father. The matter proceeded to trial but was dismissed, with the Mother being noticeably absent when the Court delivered its decision. The Mother then filed a further application for a personal protection order in SS XXX/2024 on 13 May 2024, on behalf of herself and her children, for alleged family violence on the part of the Father. This was struck off at first mentions due to the Mother's absence from the proceedings. The Father himself filed for a personal protection order on 19 July 2024 in SS XXX/2024 alleging that the Mother had struck him on his neck and head. A personal protection order was eventually issued in the Father's favour, and parties were ordered to attend mandatory counselling at FAM@FSC. There was also a protection from harassment suit filed by the Father in PHC XXX/2024, involving allegations of verbal harassment by the Mother.

4 Given the complexity of the matter and the high level of acrimony between the parties, the case was docketed before myself from February 2025 onwards, to handle the remaining ancillary and maintenance applications as a whole.

Version No 1: 26 Nov 2025 (17:36 hrs)

Facts

The parties

5 This matter concerns a 19-year marriage. The Plaintiff ("Mother") and the Defendant ("Father") were married on 31 May 2004. Although the Mother filed for divorce on 28 November 2023, her Statement of Claim was eventually struck out on 15 October 2024 as she had failed to file her Reply and Defence to Counterclaim despite being granted two extensions of time. Interim judgment was accordingly granted one year later on 29 November 2024, on the facts stated in the Father's Counterclaim. Since then, the matter has been further delayed because of the Mother's refusal to file her Affidavit of Assets and Means, as well as to comply with discovery obligations.

6 Both parties are 47 years old. The Father works as a Director of Business Development at a pharmaceuticals company. The Mother is a Non-Executive Director at a family-owned manufacturing company situated in India.

7 There are two children to the marriage, R and T. R is male, aged 14 years, and T is female, aged 10 years.

8 Prior to 26 May 2025, parties resided together at a rented apartment in Chancery Court. The lease for that property terminated on 26 May 2025. The Father and children then stayed together at another rented property at Belmond Green, while the Mother initially resided at guest rooms at the Tanglin Club, before renting an apartment at Stevens Road.

Version No 1: 26 Nov 2025 (17:36 hrs)

9 The parties own a matrimonial property as joint tenants ("the Proximo apartment"). This was tenanted out under a 24 month tenancy, which was due to expire on 16 September 2025.

The Evidence

10 The parties filed two Affidavits of Assets and Means each. The Father also sought to refer to affidavits filed in the discovery process, his pleadings, as well as related affidavits in the family violence, harassment and maintenance applications, and affidavits filed by the Mother's former solicitors in their discharge application. The following chart lists the affidavits considered in these ancillary proceedings:

S/N	FILING DATE	AFFIDAVIT	REFERENCE
Affidavits Filed in Divorce Proceedings			
1	15/4/2025	Plaintiff's 1st Affidavit of Assets and Means	P1AOM
2	25/6/2025	Plaintiff's 2nd Affidavit of Assets and Means	P2AOM
3	15/4/2025	Defendant's 1st Affidavit of Assets and Means	D1AOM
4	17/7/2025	Defendant's 2nd Affidavit of Assets and Means	D2AOM
5	15/4/2025	Defendant's Affidavit in support of discovery application	DDA1

Version No 1: 26 Nov 2025 (17:36 hrs)

6	17/7/2025	Plaintiff's Compliance Affidavit	PCA1
7	28/6/2024	Defendant's Defence and Counterclaim	D&CC
Notice of Intention to Refer to Affidavits Filed in Other Matters			
8	2/1/2024	Affidavit of Evidence In-Chief of KTR (filed in SS XXX/2023)	
9	2/1/2024	Affidavit of Evidence In-Chief of KPR (filed in SS XXX/2023)	
10	1/2/2024	Affidavit of Evidence In-Chief of RK (filed in SS XXX/2023)	
11	13/7/2024	Affidavit of RK (filed in PHC XXX/2024)	
12	13/7/2024	Affidavit of TOP (filed in PHC XXX/2024)	
13	29/8/2024	Applicant's Documents dated 29 August 2024 filed in SS XXX/2024 and MSS XXX/2024	
14	11/9/2024	Affidavit of Alwyn Tan Jun Wei of Dentons Rodyk & Davidson LLP (filed in the discharge application by Mother's former solicitors)	Discharge Affidavit

Version No 1: 26 Nov 2025 (17:36 hrs)

Issues to be determined

11 There was no agreement reached on any aspect of the ancillary matters. Accordingly, it fell to the court to determine:

(a) The custody, care and control of R and T;

(b) The division of matrimonial assets; and

(c) Spousal maintenance for the Mother and maintenance for both children.

Children's Issues

The Parties' Positions

12 The Mother in her affidavit of assets and means asked for full custody, care and control for both children, on account of her track record in caring and raising them since birth. In the alternative, she sought shared care and control, with the children to spend four days with her and three days with the Father each week.

13 The Father's position was to request for full custody, care and control of both children. This request was premised on the Mother's deteriorating emotional and psychological state over the course of proceedings, which the Father argued had manifested in erratic and volatile behaviour towards himself and the children, the Mother's former legal team, the Father's own legal team, and even to the Court itself.

14 In his pleadings, the Father detailed numerous incidents reflecting the Mother's decline in mental stability. It was pointed out that throughout the

Version No 1: 26 Nov 2025 (17:36 hrs)

marriage, the Mother had experienced sudden mood swings and personality shifts, which escalated to signs of mental instability some time in 2019. According to the Father, the Mother began isolating herself from friends and extended family and compelled the Father to do the same. She was also alleged to exhibit violent behaviour, which involved digging her fingernails into his hand and using profanity in conversations and texts directed at him, including calling him derogatory remarks such as "a sociopath", "a eunuch", "a fool" and "a piece of faeces".

15 The Father also detailed episodes of verbal aggression, emotional instability, irrational accusations, and unpredictable behaviour on the part of the Mother, that have directly impacted the children, the Husband, and extended family members. Several incidents were witnessed by the Mother's own parents, close family friends, and police officers who responded to multiple non-emergency calls made by the Mother. The Father also pointed out that the Mother compulsively overspent on the children's extra-curricular activities, depleting her own savings in the process.

16 The Father specifically highlighted an incident on 15 July 2024, which was the subject of his application for a protection order in SS XXX/2024, when the Mother physically assaulted him while he was tending to their unwell daughter. This assault occurred in the children's presence, and involved strikes to his face, head, neck and arms. The injuries were supported by medical evidence, and the Court accordingly granted him a personal protection order on 27 September 2024.

17 The Father also pointed out the manner in which the Mother's former solicitors, Dentons Rodyk & Davidson LLP, applied to discharge themselves following a breakdown in the solicitor-client relationship. In their Discharge

Version No 1: 26 Nov 2025 (17:36 hrs)

Affidavit dated 11 September 2024, the Mother's lawyers averred that there was a "serious loss of confidence" between the parties. According to her former solicitors, the Mother had repeatedly questioned the firm's competence and integrity, and accused them of siding with the Father, for example, stating that they were "*pandering to [Clifford Law's] every request*" and "*constantly sid[ing] with the other party*." Her former solicitors also pointed out that she refused to provide instructions for the filing of pleadings and affidavits despite multiple follow-ups, and ultimately refused to attend the court-scheduled trial on 5 September 2024 in PHC XXX/2024. The firm was granted an Order of Court for discharge on 15 October 2024.

18 On account of her erratic behaviour, the Father argued that the Mother displayed a disturbing inability to manage her own affairs. In his view, her ongoing refusal to seek medical help raises grave concerns as to her ability to provide a stable, secure, and emotionally safe environment for the children. Accordingly, the Father sought sole custody, care and control of both children.

19 With regard to access, the Father's position was that:

(a) Mother was to have access once a week on Friday evening from 5 pm to 8 pm.

(b) With regard to school holidays, the Father proposed that there be no access for a period of six to 12 months from the determination of the ancillary matters, and that there be limited access thereafter in the following manner, subject to the Mother undergoing medical treatment and being found to be of sound mind:

(i) Two days (9 am to 5 pm only) during the one week March holidays

Version No 1: 26 Nov 2025 (17:36 hrs)

(ii) One week (9 am to 5 pm only) during the four week June holidays

(iii) Two days (9 am to 5 pm only) during the one week September holidays; and

(iv) One week (9 am to 5 pm only) during the six week November-December holidays.

(c) There be no overseas travel without the Father's consent and the children's agreement.

The Court's Decision

20 Section 124 of the Women's Charter 1961 provides that in making orders relating to the custody, care and control and access to a child, the court should take into account the welfare of the child as the paramount consideration. In making this assessment, the Court of Appeal in *CX v CY* [2005] SGCA 37 has given guidance that the court generally leans in favour of joint parenting, at [26]:

> There can be no doubt that the welfare of a child is best secured by letting him enjoy the love, care and support of both parents. The needs of a child do not change simply because his parents no longer live together. Thus, in any custody proceedings, it is crucial that the courts recognise and promote joint parenting so that both parents can continue to have a direct involvement in the child's life.

21 While joint custody is generally the preferred arrangement, I agreed with Counsel for the Father that there are circumstances where sole custody may be warranted, particularly where the conduct or condition of the other parent compromises the child's welfare.

Version No 1: 26 Nov 2025 (17:36 hrs)

22 In this particular case, having been docketed to this matter and seen parties for more than half a year, I have witnessed unusual, disturbing, erratic and offensive behaviour from the Mother both in court and in her correspondence to the court. Despite countless warnings not to write in administratively on matters before the court, to desist from copying external parties in contravention to s 10 of the Family Justice Act 2014, as well as to ensure that the other party is copied in correspondence addressed to the court as required under the Family Justice Courts Practice Directions 2014 (paragraph 168(2)), the Mother has repeatedly and flagrantly persisted in writing to court in breach of these directions. Her repeated practice of copying emails to her relatives and even her discharged solicitors is particularly egregious, as it undermines a fundamental tenant of family proceedings, which under s 10(1) of the Family Justice Act 2014 should be held in private by default.

23 The Mother's conduct in court has also been decidedly rude and contemptuous at various points in the proceedings. She constantly disparages the Father for being incompetent and inferior to her in intelligence and education. Her behaviour went beyond the pale at a discovery hearing on 18 June 2025, where she made derogatory comments about the caste of Father's counsel, suggesting to the court that counsel carried no credibility because she belonged to a caste which had assassinated a previous prime minister of India. Even after being sternly warned by the court that such views had no place in Singapore, much less in a court of law, the Mother persisted in making such derogatory comments, and did not withdraw them on pain of contempt. The Court eventually did not proceed with contempt proceedings only because the Father's counsel charitably shrugged off these comments, and expressed her preference to expedite matters rather than to cause delay with a separate set of contempt proceedings.

Version No 1: 26 Nov 2025 (17:36 hrs)

24 The Mother's behaviour in court is also consistent with various police reports filed by the Father, as well as affidavit evidence provided by the Father and the Mother's father and brother, in addition to audio evidence tendered by the Father, of various disturbances and altercations caused by the Mother while she was living with the family in the Chancery Court premises, as well as her rude and disparaging treatment of the Father.

25 Having considered the evidence in totality, I accepted that there was ample evidence in this case to suggest that the Mother would not be fit in her present state of mind to exercise joint custody over the children. She has repeatedly demonstrated behaviour that is contemptuous, rude, and most inexplicably, contrary to her own interest in the proceedings. One particularly perplexing episode involved the Mother's repeated refusal to file her Affidavits of Assets and Means, even though it was she who had initiated divorce proceedings as the plaintiff. The court's initial direction was for the First Affidavit of Assets and Means to be filed and exchanged by 24 January 2025. This was later extended multiple times to 7 March, 13 March, 17 March and 28 March 2025, with the final deadline accompanied by an unless order, i.e. that if the Mother failed to so file, the court would take it that she is not submitting any affidavit evidence in the ancillary proceedings. Despite these directions, by the time of a case conference held on 15 April 2025, the Mother's ancillary affidavit had still not been properly commissioned and filed. The Mother's explanation for her non-compliance was that she was impecunious and did not have the money to travel down to the courthouse and the CrimsonLogic Service Bureau for the purpose of commissioning and filing her affidavit. To prevent any further delay, the Court made a special arrangement for a court commissioner to be present at the case conference to commission the Mother's affidavit on the spot, to ensure that the document was properly filed and the ancillary matter could

Version No 1: 26 Nov 2025 (17:36 hrs)

proceed. Had the Court not granted the Mother such exceptional latitude, she would have had no evidence at all to rely on in these ancillary proceedings.

26 It was thus with great consternation that the Court discovered, with the revelation at the ancillary hearing of the Mother's spending habits at the Tanglin Club after her departure from the family home on 26 May 2025, that the Mother had racked up bills amounting to $12,937.32 in the month of July 2025 and was able to make payment of $7,000 towards this expenditure (see P1). The Mother's alleged impecuniosity was thus totally fictitious, and it was apparent that she had intentionally breached court directions and an unless order over the course of January to April 2025 by withholding the filing of her Affidavit of Assets and Means.

27 The Mother has further displayed her erratic and contemptuous behaviour by refusing to provide even basic discovery despite being ordered to do so. This has persisted even at the present hearing where she preferred to disregard her CPF contributions to the property rather than share her CPF statement with the Father's counsel. Mindful that the Mother was a litigant in person, much effort was taken to explain her obligations in discovery and the implication of withholding such evidence from the Court.[1] That the Mother flagrantly refused to access her CPF statement despite repeated exhortations is clear evidence of her dysregulated behaviour and flawed decision-making process, which in turn raises serious questions about her ability to make considered decisions for the welfare of the children. While there is no medical diagnosis of the Mother's mental state available (as the court does not have the power to compel a party to seek medical treatment in divorce proceedings), the Court must act in the best interest of the children to ensure that a parent

[1] Notes of Evidence, page 87, line 26 to page 101, line 26.

Version No 1: 26 Nov 2025 (17:36 hrs)

exercising access is in the correct frame of mind to make the right decisions in regard to their care.

28 In this regard, I note that in other cases where a parent displayed a mental health condition or erratic behaviour that belies an impaired ability to make decisions in the child's best interests, the courts have taken on board such considerations in granting sole custody to the other parent. In *AVM v AWH* [2015] SGHC 194, the High Court granted the wife sole custody of the children because the husband's behaviour demonstrated that he had a poor ability to make decisions for his own welfare. His conviction for possession and consumption of illegal drugs, his promiscuous lifestyle, and the circumstances by which he contracted HIV had shown a reckless failure to exercise personal responsibility, which in turn justified the grant of sole custody to his wife. In *ACU v ACR* [2010] SGHC 322, the court accepted that the wife's reactive depression and her threats to threats to commit suicide would have been relevant to considering the grant of care and control to the other parent (at [46]). On the facts of the case, this was not necessary as the medial report suggested that her reactive depression was temporary and did not inhibit her care of the children. The point remains though that where a parent is demonstrably unfit to make decisions in the best interest and welfare of the children, sole custody and care and control can be granted to the other parent.

29 I considered the present case to be an exceptional one where joint custody would not be appropriate, given the Mother's behaviour in court and multiple incidents and altercations at the family residence. I was of the firm view that the interest and welfare of the children would be best served by giving the Father sole custody in this case.

Version No 1: 26 Nov 2025 (17:36 hrs)

30 Turning to care and control, I note that the Father had been the primary caregiver in recent times with the Mother's increasingly erratic behaviour, and had taken an active role in their upbringing, including the management of their schooling, the handling of their daily routines and seeing to their physical and emotional well-being. In particular, the children have resided with the Father since the parties' separation and share a close, stable relationship with him. The Father is also assisted by a domestic helper, whom the children have adapted well to living with.

31 In contrast, I note that even prior to the separation, the Mother had begun to withdraw from the family and isolated herself in the bedroom. She did not cook or clean for the family, chain-smoked incessantly, and lived on coffee and peanuts. The children have also complained about the cigarette smoke in the house when they were living together with their mother, which caused them to be uncomfortable with her breath.

32 I also note that the children have expressed their wishes to live with their father and not their mother. In particular, I note that R had complained to the Father that the Mother had exposed herself in front of him and that he was shocked and embarrassed by this incident. This was expressed in an email by R to the Father dated 13 July 2024, which read as follows:

> After my shower, I went into my sisters room to say hello to her, mama then walked in and asked if her bum looked good, then proceeded to lift her dress up and show us her bum. I was thoroughly disgusted and asked her to stop as I walked away. In the master bedroom, I was putting cream on my arms when mama walked in and asked if her breasts looked good, and lifted her dress up and showed me her breasts; without any bra on. It was truly an uncomfortable experience that I wish would never happen to anyone.

Version No 1: 26 Nov 2025 (17:36 hrs)

33 I have further noted the express wishes articulated by the elder child against the Mother being granted custody, although I do note that the preferences of minor children are not necessarily a conclusive factor in the determination of what is in their best interest.

34 Taking the evidence in totality, I was satisfied that the Mother's behaviour suggested that she did not have the ability to provide appropriate care for the children on a day-to-day basis. The children had been effectively estranged from her by her erratic behaviour, and she had not participated actively in their daily care since the onset of her mood swings and extreme behaviour. I therefore agreed with the Father's position that he should have sole care and control of both children.

35 With regard to access, as a starting point, I agreed with the Father that access could be granted to the Mother on Friday evenings for three hours from 5 pm to 8 pm. This arrangement ensures that the school week is uninterrupted, and also facilitates the Mother in arranging for full-time employment post-divorce. Going forward, a greater scope of access would be granted to the Mother if (1) the Mother attends at the IMH for a detailed assessment by a psychiatrist on her mental state of health, and attend any follow-up treatment or take any such medication that the doctor deems necessary, and (2) the doctor provides a full medical report that shows the Mother to be free from any mental condition that may impair her ability to care for the children. Should these conditions be satisfied, an expanded scope of access can be granted to the Mother as follows:

(a) Additional weekend meal access over three hours every week, at a time to be agreed between the parties;

Version No 1: 26 Nov 2025 (17:36 hrs)

(b) School holiday access in the format as proposed by the Father (in paragraph 19(b)(i)-(iv) above); and

(c) Three hours of access to the children by the Mother on each public holiday.

36 At a later date, should the Mother complete her consultation and her situation stabilises, parties may mutually agree to a greater degree of access, or may file the necessary variation application should they be unable to do so amicably. I would add that the passage of time alone may not be sufficient to constitute a material change of circumstances – one would need to see that the Mother has taken concrete steps to improve her mental and psychological state of mind before there can be a step up of access.

Division of Assets

37 The Father's position at the ancillary hearing was that this was primarily a single income marriage of moderate duration. The Father noted that in *BOR v BOS and another appeal* [2018] SGCA 78, the Court of Appeal had observed that while long single-income marriages justified an equal division of matrimonial assets, "moderate-length marriages" (of approximately 15-18 years) would justify awarding the non-income earning spouse approximately 35% to 40% of the matrimonial pool (at [113]). Accordingly, the Father submitted that a 60:40 division in his favour would be an equitable division under the *TNL v TNK* [2017] SGCA 15 ("*TNL*") approach for single income marriages. To effect this division, the Father was prepared to pay the Mother 40% of the market value of the matrimonial home less the respective CPF contributions, with fees for the transfer, including all administrative fees and legal costs, to be borne equally

Version No 1: 26 Nov 2025 (17:36 hrs)

between the parties. The Father was also willing to buy over her Tanglin Club Membership at the current market value.

38 At the outset, I did not consider this to be a single-income marriage to be determined in accordance with *TNL*, as both parties had worked and contributed to the household for substantial parts of the marriage. In particular, the Mother had worked in senior roles as an investment banker prior to 2014 and contributed to the household income in the earlier half of the marriage. Accordingly, the structured approach for a dual income marriage as established in *ANJ v ANK* [2015] SGCA 34 should apply.

39 This approach involves the following steps:

(a) Determine the total matrimonial pool in accordance with s 112 of the Women's Charter (1961) by aggregating the jointly held matrimonial assets, as well as assets held in each party's name.

(b) Determine the parties' direct financial contributions towards the acquisition or improvement of the matrimonial assets.

(c) Express as a second ratio the parties' indirect contributions to the well-being of the family, considering both financial and non-financial contributions.

(d) Derive the parties' overall contributions by averaging the two ratios, with possible adjustments based on the circumstances of the case.

(e) Apply the ratio to effect a division of the pool of matrimonial assets.

Version No 1: 26 Nov 2025 (17:36 hrs)

Matrimonial Pool

40 There was little dispute over what constituted the matrimonial pool, save for a Mumbai property which the Mother had declared (at the hearing) to be purchased pre-marriage. I accepted that premise and excluded that property from the matrimonial pool.

41 As the Mother did not provide any evidence of other assets or the valuation of her Tanglin Club membership, I accepted the Father's valuation that the latter would be worth at least $100,000.00.

42 Accordingly, the matrimonial pool, based on the available evidence provided by the Father, would comprise the following:

JOINT ASSETS	
Proximo Apartment (Matrimonial Home, currently leased out)	$2,332,396.14 (agreed between the parties) (Current market value of $2,670,000.00 as agreed by the parties, less outstanding loan of $337,603.86)
Land Rover Discovery	$23,178.52 (Current market value of $55,000.00, less outstanding hire purchase of $31,821.48)
DBS-0655	$0.00
DBS-4657	$50.00
UOB-5637	$968.51
FATHER'S ASSETS	
DBS-7411	$16,377.88
UOB-4341	$2,256.48

Version No 1: 26 Nov 2025 (17:36 hrs)

The Singapore Cricket Club membership (valued as at 21 January 2025)	$13,000.00
Central Provident Fund (CPF)	$334,713.62
Sub-Total	$366,347.98
MOTHER'S ASSETS	
Tanglin Club Membership	$100,000.00
TOTAL	**$3,142,941.15**

Direct Contributions

43 Both parties disagreed over their respective contributions in terms of cash downpayment provided for the matrimonial home. At the hearing, the Mother asserted that she had provided $200,000 towards the downpayment for the home, although this was not stated in her affidavit. As no affidavit evidence was provided for this claim, I could only accept the Father's stated position that parties had paid equally for the downpayment.

44 As earlier mentioned, the Mother refused to tender her CPF statement relating to the amounts paid towards the purchase of the property with the Father's counsel, and had offered instead to share it privately with the Court. I rejected this as it would be in flagrant violation of the principles of admissibility under the Evidence Act 1893, not to mention a breach of all norms of transparency and fairness. As the Mother persisted in her position, I had little choice but to accept the uncontroverted evidence submitted by the Father as to the parties' contributions:

	Father	**Mother**
Direct contribution	$120,552.29 (downpayment) + $377,008.38 (CPF) = $497,560.67	$120,552.29 (downpayment)

Version No 1: 26 Nov 2025 (17:36 hrs)

Share of contribution towards matrimonial home	**80.5%**	**19.5%**

45 From the above table provided by the Father, he provided 80.5% of the contributions towards the matrimonial home, while the Mother provided 19.5%. This percentage would be used to calculate their contribution based on the current net value of the property.

46 Parties agreed that the estimated value of the matrimonial home (the Proximo Apartment) is $2.67 million. Deducting the outstanding loan of $337,603.86 as at 4 January 2025, the net value of the Proximo apartment would be **$2,332,396.14.** The value of each parties' contributions to the current market value of the property, as well as other assets held in their respective names, is provided in the combined table of contributions as follows.

FATHER'S CONTRIBUTIONS	
Share of Net Value of Proximo Apartment	$1,877,578.89
DBS-7411	$16,377.88
UOB-4341	$2,256.48
The Singapore Cricket Club (valued as at 21 January 2025)	$13,000.00
Central Provident Fund (CPF)	$334,713.62
TOTAL	$2,243,926.87
Father's direct contribution to Matrimonial Pool	**80.2%**

Version No 1: 26 Nov 2025 (17:36 hrs)

MOTHER'S CONTRIBUTIONS	
Share of Net Value of Proximo Apartment	$454,817.25
Tanglin Club Membership	$100,000.00
TOTAL	$554,817.25
Mother's direct contribution to Matrimonial Pool	**19.8%**

47 Accordingly, the ratio of direct financial contributions is 80.2% to 19.8% in favour of the Father.

Indirect Contributions

48 The Father accepted that both parties contributed equally to the financial and non-financial aspects of raising children and maintaining the household. I accepted that the Mother had made significant contributions in the earlier years of the marriage towards the parties' finances, and had also been the primary caregiver until recent years when the relationship worsened and the Father took over this role. Accordingly, I was prepared to give the Mother a greater weightage of 60:40 for her indirect contributions.

Overall Contributions

49 I saw no reason to give greater weightage to either ratio for direct or indirect contributions. Averaging the two ratios, the overall percentage of the Father's contributions would be 60.1% (average of 80.2% and 40%), while the overall percentage of the Mother's contributions would be 39.9% (average of 19.8% and 60%).

Version No 1: 26 Nov 2025 (17:36 hrs)

Adverse Inference

50 The Father submitted that the Court should draw an adverse inference against the Mother for her failure to comply with the Discovery Order made against her, and also for completely disregarding her disclosure obligations her Affidavits of Assets and Means. The Father noted that despite directions from the Court, the Mother had not provided any documents or explanation regarding her financial position or contributions to the matrimonial assets, save for attaching a copy of her membership cards at the Tanglin Club and the Singapore Cricket Club (which were not helpful to even estimate the value of such assets). The Father submitted that the Mother's refusal to provide supporting documentation has rendered any evaluation of her contributions to the matrimonial pool to be virtually impossible.

51 I accepted the Father's arguments that the Mother was in contumelious breach of her discovery obligations. She had failed to provide even the most basic of documents relating to her income tax, CPF, bank account statements and investments in her Affidavits of Assets and Means. Neither had she provided any evidence aside from bare assertions on her direct and indirect contributions towards the matrimonial pool. Further, despite a contested summons for discovery filed by the Father (in FC/SUM 1167/2025), which was eventually granted in the whole save with regard to the Mumbai property, the Mother's compliance affidavit was completely devoid of the required financial documents, and failed to explain whether such documents were in her power, possession or control.

52 It was also amply clear during the ancillary hearing itself that there was a property which the Mother jointly owned with her mother, but had failed to

Version No 1: 26 Nov 2025 (17:36 hrs)

declare in her Affidavit of Assets and Means.[2] The fact that the Mother could make payment in the sum of $7,000 towards her Tanglin Club bill in July 2025, and could afford her rental for her current apartment at Stevens Road, further suggests that the Mother has a bank account or some other asset which she is drawing upon for her daily needs, which she has failed to declare for the purposes of the ancillary proceedings.

53 As noted above, I also found that the Mother's excuses for non-compliance simply did not hold water. Her claim that she was homeless and impecunious after the termination of the lease of the Chancery Court apartment flies in the face of the expenditure racked up during her stay at the guest rooms Tanglin Club after moving out from the family residence.

54 I note that in *Chan Tin Sun v Fong Quay Sim* [2015] SGCA 2, the Court of Appeal held that an adverse inference may be drawn where a party has failed to make full and frank disclosure, especially when such non-disclosure hampers the just and equitable division of matrimonial assets under section 112 of the Women's Charter. In *CHT v CHU* [2021] SGCA 38, the Court of Appeal further held at [6] that where an adverse inference is drawn, the Court has the power to give effect to an adverse inference by either including what it finds to be the value of undisclosed assets in the matrimonial pool (the valuation approach); or by ordering that the other party receives an uplift on his/her share of the known assets (the uplift approach).

55 Under the present circumstances, the Father submitted that the Mother's conduct justified the drawing of an adverse inference in the most serious terms, as it deprived the Court of the ability to properly assess the Mother's true

[2] Notes of Evidence, page 137, lines 1 to 8.

Version No 1: 26 Nov 2025 (17:36 hrs)

financial circumstances. The Father submitted that the most appropriate course would be for the Court to adopt the uplift approach and grant him an uplift of 10%. The Father also submitted that the Court in inferring that the Mother is withholding information regarding matrimonial assets in her possession, should treat her alleged entitlements conservatively when determining division of matrimonial assets.

56 I agreed with the Father that the Mother's breaches of her discovery obligations effectively prevented the Court from conducting a proper inquiry into the equitable distribution of matrimonial assets. The valuation approach would not even be applicable in this case as the Mother's true asset pool is a complete black hole and there are no known assets to which a value can be effectively tagged. Accordingly, an uplift would be appropriate to penalise the Mother for her failure to disclose matrimonial assets in her possession, and also reflect that she may be concealing other matrimonial assets. In the circumstances, I granted an uplift of 8% to the overall ratio in favour of the Father, mindful that this would correspondingly reduce the Mother's ratio by 8%, resulting in a final ratio of division of 68.1 : 31.9 as between the Father and the Mother.

Orders on Division

57 Given that the Mother had deliberately withheld her CPF statement from the Court, as well as the real possibility that she had failed to declare other substantial assets in her name, I considered it would be more equitable to apply the ratio of division to the matrimonial home only, and to allow the parties to retain the other assets in their possession. To do otherwise would be to grant the Mother a share of the assets declared by the Father that were held in his sole name, in particular, the substantial amount of $334,713.62 in his CPF Account,

Version No 1: 26 Nov 2025 (17:36 hrs)

without any corresponding consideration to him from her own undeclared asset pool. I consider this to be manifestly unjust. Under such unusual circumstances where there has been a clear and complete dereliction of the Mother's obligations in discovery, I decided that it would be more equitable to apply the *ANJ* ratio for division to the matrimonial property alone, and to allow the Father to retain other assets held in his own name. I also do note in this regard that there was a jointly owned asset in the form of a Land Rover, registered on 19 August 2016, with presumedly one year left to its certificate of entitlement. The net value of the car was determined to be $23,178.52 as at the date of the filing of the Father's first ancillary affidavit (i.e. 15 April 2025), and would have depreciated further by the time of the hearing on 13 August 2025. As such, I considered this asset to be *de minimis* and disregarded it for the purposes of the division.

58 As the net value of the matrimonial home has been established to be **$2,332,396.14**, the Father's share at 68.1% would be **$1,586,029.38**, while the Mother's share would be **$746,366.76**. As the Father wishes for the matrimonial home to be transferred to his sole name, he would have to transfer the Mother a sum of money that fairly represented her share of the asset. Given the Mother's complete failure to provide discovery, I considered that her retention of the Tanglin Club Membership (the value of which is estimated to be $100,000) should be deducted from her share of $746,366.76 of the value of the matrimonial home. Accordingly, the division of assets would be effected by having the matrimonial home transferred to the Father's sole name upon his payment of the sum of **$646,366.76** to the Mother. I would add that parties should bear all administrative and legal fees equally, and the transfer shall take place within six months. The usual Registrar's Empowerment Clause is to be included in the terms of judgment.

Version No 1: 26 Nov 2025 (17:36 hrs)

59 By way of footnote, I would point out an errata in my brief grounds which reflected the Father's share of the matrimonial home to be **$1,593,493.04**. This was a calculation error and the correct sum should be **$1,586,029.38** as reflected above. In any case, this did not affect the final order, as the amount that the Father had to transfer the Mother to reflect her share of the matrimonial home was computed based on the value of the Mother's share, which was correctly reflected in the brief grounds.

Recovery of Rental and Loan Repayment

60 As the Mother had moved out of the rented home from 27 May 2025 after the expiration of the lease, the Father should account for her share of the rental proceeds of the matrimonial home from that point until the end of the tenancy on 11 October 2025, covering a period of about 4⅓ months. This amounts to the sum of $12,458.32, which should be payable as a lump sum at the end of the tenancy.

61 However, I note that the Father had paid off the Mother's Education Loan with OCBC Bank *after* the interim judgment date of 29 November 2024. While the Mother claimed that this sum should be borne by him as *quid pro quo* for her earlier payment for his MBA degree during the marriage, I did not agree and considered her contribution in this regard to be reflected as part of her indirect contributions made throughout the course of the marriage. Once the interim judgment was granted, liabilities should lie where they fall and insofar as the Father had paid up in full for a sum of $16,800 for which both parties were jointly and severally liable, I would allow him to recover half that amount (i.e. $8,400) by netting this sum off from the rental proceeds of $12,458.32 owed to the Mother.

Version No 1: 26 Nov 2025 (17:36 hrs)

62 In short, the Father is to pay the net sum of $4,058.32 to the Mother by 11 October 2025 (the date of the expiry of the lease on the matrimonial home). I would also allow the Father to deduct from that sum any outstanding cost orders that remain unpaid by the Mother.

Spousal and Child Maintenance

63 The Mother sought spousal maintenance in the sum of $10,000 a month, or a lump sum payment of $2,000,000 in her maintenance application (MSS XXX/2024). I note in this regard that the Father's monthly income is about $18,000, and his offer was to pay her $1,000 a month for a maximum period of 12 months.

64 It is axiomatic that while the overarching principle embodied in spousal maintenance under s 114(2) of the Women's Charter is financial preservation, i.e. the wife should be maintained at a standard that is, to a reasonable extent, commensurate with the standard of living she had enjoyed during the marriage, the award of maintenance for a *former* wife should also take into account the fact that she should regain self-sufficiency and not assume life-long dependency on her former husband (see *ATE v ATD* [2016] SGCA 2 at [31]).

65 I agree with the Father's position that the Mother should find gainful employment within 12 months, given her stated views on her capability and high earning power. By her own account, the Mother is highly educated, possessing a master's degree, and had previously worked at a directorial position in a bank where she was paid $30,000 a month.

66 As to the quantum of spousal maintenance, a proper analysis is made difficult by the Mother's failure to itemise her expenses as well as any passive

Version No 1: 26 Nov 2025 (17:36 hrs)

income from existing assets. As interim maintenance was provided in the sum of $500 in addition to the payment of her regular bills at the Tanglin Club, I would direct that a higher spousal maintenance of $1,200 should be provided to the Mother for the period of 12 months or until she finds gainful employment, whichever is earlier. I considered the Mother's requested sum of $10,000 per month (or a lump sum of $2,000,000) to be completely disproportionate to the Father's income of $18,000. It also disregards the fact that he will be paying for the upkeep of both children.

67 As for child maintenance, the Father has set out the children's monthly expenses, which amount to $500 for R and $1,428.67 for T. Thus far, the Father has been solely responsible for all the children's expenses since 2014, when the Mother resigned from her full-time employment.

68 The Father's position on child maintenance is that the Mother should contribute $1,000 per month towards the children's maintenance upon securing employment, or after a period of 12 months, whichever is earlier. The Mother's position, as found in her MSS application, was that each child should be paid a lump sum maintenance of $290,000. This position is superseded as the Mother will not be receiving care and control of the children.

69 While it is a well-established principle that both parents have a joint and equal duty to maintain their children, and that the Mother should therefore contribute towards their upkeep by the Father once she achieves gainful employment, I am mindful of her present mental state, and would be cautious about imposing any requirement for her to pay maintenance at this stage. We would need to see the nature of her employment and her income level to properly ascertain the appropriate sum of her contribution towards child

Version No 1: 26 Nov 2025 (17:36 hrs)

maintenance. This will have to be applied for at a later stage once she finds employment.

Orders for MSS XXX/2024

70 As maintenance issues have been resolved globally in the ancillary matters, I make no orders with regard to MSS XXX/2024.

Coda on the Mother's Mental Capacity to Conduct Proceedings

71 Following the ancillary hearing, and after the orders made were extracted on 21 August 2025, the Mother filed her appeal on 26 August 2025, and appointed fresh counsel to make further arguments by way of letter on 2 September 2025. The further arguments related to:

(a) **Procedural Fairness**: Given the Court's expressed concerns about the Mother's mental state, and that she had conducted the proceedings without the appointment of a court friend or the benefit of independent psychiatric evidence, Counsel for the Mother requested for the ancillary matters to be addressed properly now that legal representation was secured.

(b) **Custody and Access:** The access order on Fridays 5-8 pm was unworkable due to the children having enrichment classes during that period.

(c) **Direct Contributions disregarded and uplift for adverse inference:** The Mother's claimed direct contributions of $200,000 downpayment toward the matrimonial property and undisclosed CPF payments were excluded as they were not presented in affidavit form,

Version No 1: 26 Nov 2025 (17:36 hrs)

and an uplift was applied for adverse inference. Now that the Mother has family support and legal representation, the Court was requested to reconsider how these contributions could be dealt with.

72 The Mother's new solicitors expressed that the appeal was filed merely to preserve the Mother's rights, and invited the court to grant a short audience to address the Court properly on the above matters.

73 By way of a reply dated 8 September 2025, the Court declined to accept further arguments in the matter as the time for appeal had lapsed. It was clear to my mind that the Court was *functus officio* as final orders had already been extracted on 21 August 2025. In the response, it was also stated that "a perusal of the record of proceedings will show that the plaintiff was able to fully comprehend the proceedings and articulate her arguments for the case."

74 Nevertheless, as the issue of the Mother's mental capacity to conduct proceedings is likely to feature in the appeal, I take the opportunity to elaborate on my observations as to the Mother's mental capacity to conduct proceedings on her own behalf in this ancillary matter.

75 At the outset, I would point out that it is possible for a person suffering from a mental health condition to have the mental capacity to litigate, even her mental state renders her unfit to exercise custody and have care and control over the children. The two issues involve fundamentally different inquiries. The former is concerned with a person's ability to understand and follow the proceedings, and articulate his or her own views and responses. The proclivity of a party to make unsound judgment calls or bad decisions in the court process do not concern the court, so long as the party's cognitive and reasoning abilities are intact. However, in assessing whether a party is fit to exercise custody, care

Version No 1: 26 Nov 2025 (17:36 hrs)

and control over a child, the ability to make sound and cogent decisions in the best interest and welfare of the child is paramount. In this regard, a parent with sufficient cognitive skills to comprehend the conduct of litigation may in the same breath be considered incapable of exercising sound judgment in the care of a child.

Relevant Legal Principles on Mental Capacity to Litigate

76 The starting point when addressing mental capacity of a litigant is Rule 656 of the Family Justice Rules 2014 (as applicable to the present case), which states as follows:

> **656.**—(1) A person under disability may not bring, make a claim in, defend, make a counterclaim in, or intervene in any proceedings, or appear in any proceedings under a judgment or an order notice of which has been served on him, except by his litigation representative[3].
>
> (2) Subject to these Rules —
>
> *(a)* anything which in the ordinary conduct of any proceedings is required by a provision of these Rules to be done by a party to the proceedings must, if the party is a person under disability, be done by his litigation representative[3]; and
>
> *(b)* anything which in the ordinary conduct of any proceedings is authorised by a provision of these Rules to be done by a party to the proceedings may, if the party is a person under disability, be done by his litigation representative[3].
>
> (3) A litigation representative of a person under disability must act by a solicitor.

77 Under Rule 654, a "person under disability" is defined as a person who is a minor or who is "a person lacking capacity". The latter is in turn defined to mean "a person who lacks capacity within the meaning of the Mental Capacity Act in relation to matters concerning his property and affairs".

Version No 1: 26 Nov 2025 (17:36 hrs)

78 The test for mental capacity is set out in s. 4(1) of the Mental Capacity Act 2008 ("MCA"), which reads,

> "For the purposes of this Act, a person lacks 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**." (**emphasis added**)

79 The test under s 4(1) of the MCA consists of a Functional Component and Clinical Component. The Functional Component relates to a patient or party being "unable to make a decision for himself", while the Clinical Component relates to whether this inability stems from an impairment of the mind. The Functional Component is a matter for the Court to decide based on the evidence as to the degree that P's mental functioning is compromised, while the Clinical Component is addressed with the assistance of medical expert evidence, per [134] of the Court of Appeal decision in *Re BKR* [2013] 4 SLR 1257.

80 The definition of what constitutes inability to make a decision is further provided in s. 5(1) of the MCA as follows:

> 5.—(1) For the purposes of section 4, a person is unable to make a decision for himself or herself if the person is unable —
>
> *(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).

81 Two observations are apposite at this point. First, the presence of a mental health condition does not automatically mean that a person lacks capacity. It must be shown that he or she was unable to make a specific decision at the material time, because of the mental health condition. For example, in *Re*

Version No 1: 26 Nov 2025 (17:36 hrs)

GAV [2014] SGDC 125, it was held that P had the mental capacity to make decisions for himself even though he suffered from schizophrenia. At [11], the court held that:

> While it was clear from the medical evidence that P suffered from schizophrenia, some schizophrenia patients can, with treatment, lead relatively normal lives. As such, **the existence of a diagnosis of schizophrenia did not in itself mean that P must automatically be determined to lack capacity**." (**emphasis added**)

82 Second, it is specifically provided in s 3(4) of the MCA that "(a) person is not to be treated as unable to make a decision merely because the person makes an unwise decision". The focus is not on the consequences of a decision, but the capacity to make that decision. The Court of Appeal elaborated on this principle in *Re BKR* [2013] 4 SLR 1257, where it stated, from [175] to [180], that:

> (a) An unwise decision does not, by itself, mean that he or she lacked the ability to decide on that matter.
>
> (b) The test is whether that person is able to understand the information relevant to the decision and, if yes, whether he or she is then able to use and weigh all that information in the process of arriving at the decision.
>
> (c) The ability to use and weigh the relevant information requires him or her to engage with the countervailing considerations relevant to the decision and measure the pros against the cons in a non-arbitrary manner.
>
> (d) Feelings and intuition may play a part in the decision-making process. The key lies in the ability to engage with all these factors, rather

Version No 1: 26 Nov 2025 (17:36 hrs)

than allow one or some of them to dominate the decision-making process.

The Mother was able to Make Decisions For Herself in the Course of Proceedings

83 I had the opportunity to consider the application of the above principles during my personal observation of the Mother at in-person hearings on six occasions on 6 February, 17 March, 15 April, 13 May, 18 June and 13 August 2025. She presented as a person who was confident, extremely articulate to the point of being argumentative, with a clear ability to explain her actions, raise objections and provide rebuttals against the points made by Father's Counsel in the course of proceedings. I also noted that the Mother had a tendency to ramble about irrelevant matters, and constantly ignored the court's guidance to constrain herself to the relevant issues at hand.

84 A perusal of the Notes of Evidence of the ancillary hearing on 13 August 2025 would reveal that:

(a) The Mother was able to raise objections to the admissibility of the Tanglin Club statement of accounts.[3]

(b) The Mother was able to articulate her arguments for joint custody and the importance of topics such as health, education, religion, enrichment and other activities to be done in joint consultation between the parents.[4]

[3] Notes of Evidence, page 6, line 5 to page 11, line 20.

[4] Notes of Evidence, page 16, lines 3 to 15.

Version No 1: 26 Nov 2025 (17:36 hrs)

(c) The Mother was able to rebut Father's Counsel submission that her daughter was embarrassed by her presence at school, by pointing out that she had volunteered at the school's Racial Harmony Day, and that her daughter had been coaxed by the Father into stating so in the affidavit.[5]

(d) The Mother was able to provide supporting reasons for her having care and control in her reply on child issues, showing that she was able to understand and follow the arguments made in proceedings so far. She was also able to articulate her reasons for refusing to undergo medical examination.[6]

(e) When asked if she refuted the Father's position that she kept to the bedroom and did not interact with the children, the Mother was able to explain that she kept an arms length distance because the Father had called the police in an earlier incident which resulted in her being remanded overnight at the police station, and that she did interact with and teach the children while the Father was on business trips.[7]

(f) The Mother had disputed the valuation adopted by Father's counsel and adduced a more appropriate valuation of $2.67 million which was eventually agreed upon by both parties.[8]

(g) The Mother was able to provide relevant information to support her indirect contributions, and propose a ratio that should apply to her

[5] Notes of Evidence, page 49, lines 16 to 32.

[6] Notes of Evidence, page 56, line 17 to page 57, line 15.

[7] Notes of Evidence, page 69, line 24 to page 70, line 18.

[8] Notes of Evidence, page 121, line 8 to page 123, line 3.

Version No 1: 26 Nov 2025 (17:36 hrs)

indirect contributions, showing that she had understood the court's earlier explanation of the workings of the *ANJ* test.[9]

85 The conclusion I came to after observing the Mother over the course of half a year was that while she was frequently irrelevant and irreverent in her responses, she clearly understood the matters being discussed in the proceedings, and was able to put forth relevant arguments to support her position. The fact that she took disadvantageous positions in respect of discovery and the filing of her ancillary affidavit does not necessarily imply that she lacked the ability to make her own decisions. As earlier observed, the ability to decide does not connote the ability to decide well. For the same reason, raising concerns over a person's mental health condition does not *ipso facto* connote that the person lacks the mental capacity to litigate or requires a litigation representative. There was no doubt in my mind that the Mother had the mental capacity to represent herself and conduct proceedings on her own behalf in this ancillary matter.

Conclusion

86 Having concluded the matter, I invited the parties to address on costs. The Father's counsel graciously submitted that there be no order as to costs. Accordingly, I directed that there be no order as to costs.

87 In closing, I wish to highlight that litigants in person cannot expect to take advantage of their own ignorance or perceived inadequacies to play fast and loose with the rules of adjudication. While the judge may exercise some latitude to ensure that the litigant in person receives a fair day in court, this

[9] Notes of Evidence, page 124, line 12 to page 126, line 2.

Version No 1: 26 Nov 2025 (17:36 hrs)

should not be interpreted as laxity or weakness in the face of litigants who seek to proverbially have their cake and eat it. The Mother is one such litigant. Having stymied the court process repeatedly with her absenteeism, non-compliance and complete disregard for the rules of discovery, she has to bear the price of her disregard for the court process and suffer the consequences of her refusal to abide by its rules. That she only decided to appoint counsel and seek to re-open the matter after an adverse outcome at the ancillary proceedings speaks volumes of her lack of respect for due process and fair play.

88 Having said this, I do urge the Mother to take stock of her circumstances and accept that the path to reuniting with the children and establishing her own self-sufficiency are one and the same – that she should consult with medical health professionals to better understand her own state of mind and regulate her behaviour accordingly. It is a pity that a long marriage had suddenly turned south in recent years due to circumstances which appear to be beyond parties' control. There is still hope that normalcy can be achieved after the divorce, with a proper addressing of these root causes that have so unfortunately resulted in the couple parting ways. It is my sincere hope that parties can find a fresh start and head on the path to recovery and healing, and that future differences can be resolved in an amicable manner, without resort to further litigation.

89 By way of summary, I list out the following orders that were made at the conclusion of the ancillary hearing:

1. Custody, care and control

The Defendant shall have sole custody, care and control of the two children of the marriage namely:

(a) R (m) born on XX January 2011

Version No 1: 26 Nov 2025 (17:36 hrs)

(b) T (f) born on XX January 2015

2. Access

2.1 The Plaintiff shall have access to the Children every Friday evening from 5 pm to 8 pm.

2.2 A greater scope of access will be granted to the Plaintiff if (1) the Plaintiff attends at the Institute of Mental Health (IMH) for a detailed assessment by a psychiatrist on her mental state of health, and attend any follow-up treatment or take any such medication that the doctor deems necessary, and (2) if the doctor provides a medical report that shows the Plaintiff to be free from any mental condition that may impair her ability to care for the children. Should these conditions be satisfied, expanded access can be granted to the Plaintiff as follows:

(a) Additional weekend meal access of 3 hours every week, at a time to be agreed between the parties;

(b) School holiday access as follows:

(i) 2 days' access (9am to 5pm with no overnight access) during the 1 week holidays in March after Term 1 concludes;

(ii) 1 week access (9am to 5pm with no overnight access) during the 4 week June holidays after Term 2 concludes;

(iii) 2 days' access (9am to 5pm with no overnight access) during the 1 week September holidays after Term 3 concludes;

Version No 1: 26 Nov 2025 (17:36 hrs)

(iv) 1 week access (9am to 5pm with no overnight access) during the 6 weeks November - December holidays after Term 4 concludes.

(c) 3 hours of access by the Plaintiff on each Public Holiday.

3. Spousal Maintenance

The Defendant shall pay a monthly maintenance of $1,200.00 to the Plaintiff for the period of 12 months or until she finds gainful employment, whichever is earlier.

4. Children Maintenance

The children of the marriage shall be solely maintained by the Defendant.

5. Division of Matrimonial Property

5.1 The Plaintiff's rights, title and interest in the matrimonial property at XXX shall be transferred (other than by way of sale) to the Defendant with no CPF refunds to be made to the Plaintiff's CPF account. The Defendant shall pay the Plaintiff the sum of $646,366.76. The transfer shall take effect within 6 months of the Order of Court.

5.2 Parties shall bear all administrative and legal fees related to the said transfer equally.

5.3 The Registrar / Assistant Registrar of the Family Justice Courts under section 31 of the Family Justice Act 2014 is empowered to

Version No 1: 26 Nov 2025 (17:36 hrs)

execute, sign, or endorse all necessary documents relating to matters contained in this order on behalf of either party (should either party fail to do so within seven days of written request being made to the party).

6. Others

6.1 The Defendant shall pay the Plaintiff the sum of $4,058.32 being the balance of the rental income from the matrimonial property after setting off the Plaintiff's Education Loan, by 11 October 2025.

6.2 There shall be no order as to costs.

6.3 Parties are at liberty to apply.

90 It remains for me to record my appreciation to Counsel for the Father, for her tenacity in handling this intractable matter, her patience in turning the other cheek in the face of grave provocation, and her invaluable assistance to the Court over the course of these proceedings.

Kenneth Yap
District Judge

Plaintiff-in-person;
Sandhu Viviene Kaur (Clifford Law LLP) for the defendant;

Version No 1: 26 Nov 2025 (17:36 hrs)