

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGFC 131

District Court Appeals No RAS 30/2025

FC/OAD 454 of 2024

FC/SUM 1875/2025

Between

XSG

... Applicant

And

XSF

... Respondent

FOUNDATIONS OF DECISION

[Family Law] - [Stay of proceedings]

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XSG

v

XSF

[2025] SGFC 131

Family Court — OAD 454 of 2024 (FC/SUM 1875/2025)
District Judge Chia Wee Kiat
22 October 2025 and 6 November 2025

5 December 2025

District Judge Chia Wee Kiat:

1 For the purposes of these grounds, I shall refer to the parties as the “Husband” and the “Wife”.

2 FC/SUM 1875/2025 (“SUM 1875”) was an application by the Husband for the following orders:

1. That there be a stay of proceedings in FC/OAD 454/2024 and FC/OAD 2297/2025 and for any timelines in FC/OAD 454/2024 and FC/OAD 2297/2025 be held in abeyance pending the conclusion of the proceedings in JB-[X1], JB-[X2] and JB-[X3] in the High Court of Malaya at Muar (collectively the “Malaysian Proceedings”).
2. Any other relief that this Honourable Court deems fit.
3. Costs in the cause.

3 The Husband submitted that all proceedings in Singapore ought to be stayed pending the conclusion of the Malaysian proceedings¹ on the ground of *forum non conveniens*. The Wife objected to the application.²

4 On 6 November 2025, I dismissed the stay application with costs fixed at \$1,500 in favour of the Director of Legal Aid as the Wife was legally aided.

5 The Husband has appealed against my decision *vide* HCF/RAS 30/2025 filed on 7 November 2025. I now set out my grounds of decision.

Background

6 The parties were married on 8 May 2014 in Malaysia.³ They were originally Malaysians.⁴ Prior to the marriage, the Wife studied and worked in Singapore.⁵ The Husband is a businessman.⁶ He incorporated four companies in Singapore,⁷ one of which was [HC1], registered in July 2015.⁸ He travelled frequently to Singapore to work for his companies.⁹

¹ Husband's Written Submissions dated 14 October 2025 at [31].

² Wife's Written Submissions dated 14 October 2025 at [5].

³ Husband's Affidavit (SUM 1875) dated 13 August 2025 (H1) at [2a(i)]; Wife's Affidavit dated 19 September 2025 (W1) at [8].

⁴ *Ibid.*

⁵ Wife's Affidavit dated 19 September 2025 (W1) at [19].

⁶ Wife's Written Submissions dated 14 October 2025 at [32(2)].

⁷ Wife's Written Submissions dated 14 October 2025 at [34].

⁸ Wife's Affidavit dated 19 September 2025 (W1) at [21].

⁹ Wife's Affidavit dated 19 September 2025 (W1) at [22].

7 After the marriage, the parties resided in Malaysia for around two years.¹⁰ The Wife said that as [HC1] was doing exceptionally well, the Husband proposed moving to Singapore and making Singapore their permanent home.¹¹ It was not disputed that the Husband had managed to build his business and wealth in Singapore.¹²

8 The parties moved to Singapore in July 2017¹³ and successfully applied for and obtained Singapore Permanent Resident (“PR”) status on 27 March 2018.¹⁴ They bought a 5-room HDB flat in August 2021 as their matrimonial home¹⁵ and obtained Singapore citizenship in 2022¹⁶. Following that, they renounced their Malaysian citizenship.¹⁷

9 The parties have three children to the marriage, [A], [Z] and [N], who are aged 11, 8 and 4 this year.¹⁸ The children have dual citizenship.¹⁹

10 The family stayed in Singapore for about 6 years.²⁰ The Wife said that in June 2023, the Husband disregarded her views and forced the family to go to

¹⁰ Wife’s Affidavit dated 19 September 2025 (W1) at [18].

¹¹ Wife’s Affidavit dated 19 September 2025 (W1) at [33].

¹² Husband’s Written Submissions dated 14 October 2025 at [27].

¹³ Wife’s Affidavit dated 19 September 2025 (W1) at [18].

¹⁴ Wife’s Affidavit dated 19 September 2025 (W1) at [34]; Husband’s Affidavit (SUM 1875) dated 13 August 2025 (H1) at [2a(iii)].

¹⁵ Wife’s Affidavit dated 19 September 2025 (W1) at [27] and [79].

¹⁶ Wife’s Affidavit dated 19 September 2025 (W1) at [34] and [77]; Wife’s Written Submissions dated 14 October 2025 at [19(5)].

¹⁷ Wife’s Affidavit dated 19 September 2025 (W1) at [10] and [34].

¹⁸ Wife’s Affidavit dated 19 September 2025 (W1) at [7] and [78].

¹⁹ Wife’s Affidavit dated 19 September 2025 (W1) at [10] and [73]; Husband’s Written Submissions dated 14 October 2025 at [27].

²⁰ Wife’s Affidavit dated 19 September 2025 (W1) at [25].

Perth, Australia.²¹ The Wife had to follow him as he was the sole breadwinner and managed the family's expenses.²²

11 The Wife said that in March 2024, the Husband pressured her to sell the matrimonial flat and when she refused, he abruptly terminated all his financial support,²³ leaving her stressed, panicked and overwhelmed with financial obligations in Australia.²⁴ She had no choice but to reach out to the Husband's father ("HF"), who agreed to help her financially on the condition that she return to Malaysia with the children.²⁵ When the Wife and the children arrived in Malaysia on 1 June 2024, they stayed at HF's house and occupied one room, while the others were occupied by HF and his three young children from his second marriage.²⁶

12 The Wife was given a social visit pass for up to 30 days until 10 November 2024 and had to make repeated trips to and from Singapore on each 30-day cycle.²⁷

13 The Wife said that on 13 June 2024, the Husband again pressured her to sell the matrimonial flat. He came home drunk, laughing, and claiming involvement in a car accident. He wanted sex, which the Wife rejected. He shouted, became physical, and asked her to leave. The Wife packed and left with the children on 14 June 2024. She returned a week later to give him a second

²¹ Wife's Affidavit dated 19 September 2025 (W1) at [36] - [37].

²² Wife's Affidavit dated 19 September 2025 (W1) at [36].

²³ Wife's Affidavit dated 19 September 2025 (W1) at [43].

²⁴ Wife's Affidavit dated 19 September 2025 (W1) at [45].

²⁵ Wife's Affidavit dated 19 September 2025 (W1) at [47].

²⁶ Wife's Affidavit dated 19 September 2025 (W1) at [51] – [52].

²⁷ Wife's Affidavit dated 19 September 2025 (W1) at [54].

chance, but things worsened. He threw her belongings out and continued to harass and bully her. As a result, she left again with the children on 29 September 2024 to her parents' place to seek refuge.²⁸

14 The Wife said that on 1 October 2024, the Husband secretly took away [N] from her school in Johor Bahru and instructed the school not to give the Wife access.²⁹ [N] was only three years old then.³⁰ On the next day, the Husband also tried to take [A] and [Z] from their schools but failed³¹ as the older children had refused to follow him.³²

15 The Husband insisted that the Wife go to HF's house if she wanted to see [N].³³ When the Wife visited HL's house in November 2024, the Husband told her to give him some time and he would bring the family back to Singapore.³⁴

16 The Wife said that she could no longer trust the Husband due to several incidents, including an incident on 3 October 2024 when the Husband blocked her car, took out her car key and her handbag to prevent her from leaving, and demanded that she return the money he paid for the matrimonial flat.³⁵

²⁸ Wife's Affidavit dated 19 September 2025 (W1) at [57] and [107].

²⁹ Wife's Affidavit dated 19 September 2025 (W1) at [66].

³⁰ Wife's Affidavit dated 19 September 2025 (W1) at [108].

³¹ Wife's Affidavit dated 19 September 2025 (W1) at [104] and [109].

³² Wife's Affidavit dated 19 September 2025 (W1) at [109].

³³ Wife's Affidavit dated 19 September 2025 (W1) at [58].

³⁴ Wife's Affidavit dated 19 September 2025 (W1) at [58].

³⁵ Wife's Affidavit dated 19 September 2025 (W1) at [58].

17 On 6 November 2024, the Wife made a trip back to Singapore to file a PPO application in person.³⁶ The Husband engaged lawyers in Singapore to contest the PPO application.³⁷

18 On 7 November 2024, the Husband filed JB-[X1] in Malaysia³⁸ for interim custody, care and control of the children.³⁹

19 On 10 November 2024, the Wife returned to Singapore with [A] and [Z].⁴⁰ The Wife said that she had not seen [N] since the Husband took her from school on 1 October 2024 and kept her,⁴¹ and [A] and [Z] were terrified of being taken away by the Husband.⁴² On the other hand, the Husband asserted that the Wife had taken [A] and [Z] to Singapore without his knowledge or consent,⁴³ and he had not seen the two older children since.⁴⁴

20 On 12 November 2024, the Wife filed a cross-application *vide* JB-[X2] for the urgent return of [N].⁴⁵ JB-[X1] and JB-[X2] were still ongoing and had not been heard at the time of the Husband's stay application.⁴⁶

³⁶ Wife's Affidavit dated 19 September 2025 (W1) at [95].

³⁷ Wife's Affidavit dated 19 September 2025 (W1) at [98].

³⁸ Wife's Affidavit dated 19 September 2025 (W1) at [61], [91] and [117].

³⁹ Husband's Written Submissions dated 14 October 2025 at [7].

⁴⁰ Wife's Affidavit dated 19 September 2025 (W1) at [58].

⁴¹ Wife's Affidavit dated 19 September 2025 (W1) at [55].

⁴² Wife's Affidavit dated 19 September 2025 (W1) at [110].

⁴³ Husband's Written Submissions dated 14 October 2025 at [6].

⁴⁴ Husband's Written Submissions dated 14 October 2025 at [11].

⁴⁵ Wife's Affidavit dated 19 September 2025 (W1) at [67]; see also [61], [65], [68], [91] – [93] and [143].

⁴⁶ Wife's Affidavit dated 19 September 2025 (W1) at [153(2)].

21 On 29 November 2024, the Wife commenced divorce proceedings in Singapore *vide* FC/OAD 454/2024 (“OAD 454”).⁴⁷ The Wife said that the marriage started to break down in February 2024 for many reasons.⁴⁸ While the Husband was kind and treated her well when he was in a good mood, his behaviour deteriorated when he was drunk or when she refused to sell the matrimonial flat. He became abusive and even ordered her to leave HF’s house,⁴⁹ and repeatedly threatened to withhold money if she refused to sell the matrimonial flat.⁵⁰ The Wife could not agree as Singapore was their permanent home and she needed the matrimonial flat for the family’s return.⁵¹ The Wife said that the Husband became very cruel, falsely claiming that she had rented out a bedroom to force the HDB to confiscate the matrimonial flat.⁵²

22 The Wife said that multiple attempts were made to serve OAD 454 on the Husband and his Singapore lawyers but he deliberately avoided service. As a result, she had to apply and obtained an order for substituted service.⁵³

23 On 25 March 2025, the Wife obtained a PPO after a contested hearing.⁵⁴

24 On 23 April 2025, the Husband filed FC/SUM 888/2025 (“SUM 888”) to seek access to [A] and [Z].

⁴⁷ Wife’s Affidavit dated 19 September 2025 (W1) at [62], [64], [68], [116] and [150].

⁴⁸ Wife’s Affidavit dated 19 September 2025 (W1) at [81].

⁴⁹ Wife’s Affidavit dated 19 September 2025 (W1) at [83].

⁵⁰ Wife’s Affidavit dated 19 September 2025 (W1) at [82].

⁵¹ Wife’s Affidavit dated 19 September 2025 (W1) at [82].

⁵² Wife’s Affidavit dated 19 September 2025 (W1) at [84].

⁵³ Wife’s Affidavit dated 19 September 2025 (W1) at [69].

⁵⁴ Wife’s Affidavit dated 19 September 2025 (W1) at [98] and [102].

25 On 13 May 2025, the Husband filed a cross-application for divorce *vide* FC/OAD 2297/2025 (“OAD 2297”) in Singapore⁵⁵ and a divorce petition *vide* JB-[X3] in Malaysia.⁵⁶

26 On 12 June 2025, the Wife was made a bankrupt.⁵⁷ She said that she was asked by the Husband to sign certain documents when he set up his company in Singapore in 2015. She later she discovered that the documents made her a guarantor/surety for his company which resulted in her bankruptcy.⁵⁸

27 On 14 August 2025, the Husband filed the present application, SUM 1875, to stay the proceedings.

28 On 21 August 2025, the Husband was also made a bankrupt.⁵⁹ The Wife said that despite his bankruptcy, the Husband travelled to Bangkok and Melbourne. He called her stupid and laughed at her for staying in Singapore as a bankrupt with travel restrictions.⁶⁰

Analysis

Applicable law

29 In *XLV v XLW* [2025] SGHCF 35 (“*XLV v XLW*”), a recent decision of the Family Division of the High Court, Teh Hwee Hwee J helpfully summarised the applicable law as follows:

⁵⁵ Wife’s Written Submissions dated 14 October 2025 at [63].

⁵⁶ Wife’s Written Submissions dated 14 October 2025 at [64] and [150].

⁵⁷ Wife’s Affidavit dated 19 September 2025 (W1) at [74].

⁵⁸ Wife’s Affidavit dated 19 September 2025 (W1) at [23], [75] and 76].

⁵⁹ Wife’s Affidavit dated 19 September 2025 (W1) at [23] and [74].

⁶⁰ Wife’s Affidavit dated 19 September 2025 (W1) at [75].

35 The legal principles for determining the question of forum non conveniens are set out in *Spiliada Maritime Corporation v Cansulex Ltd* [1987] AC 460 (“*Spiliada*”), and have been consistently adopted by the Singapore courts. Under stage one of the *Spiliada* test, the defendant bears the burden of establishing that there is another available forum which is clearly or distinctly more appropriate than Singapore (*Eng Liat Kiang* at [19], *BDA v BDB* at [28]). This requires more than merely showing Singapore is not the natural forum; there must be a clearly or distinctly more appropriate alternative forum. The court’s task is to examine the connecting factors to ascertain which forum has the most real and substantial connection with the action (*Spiliada* at 478 and *CIMB Bank Bhd v Dresdner Kleinwort Ltd* [2008] 4 SLR(R) 543 (“*CIMB Bank Bhd*”) at [26]). The weight accorded to each factor varies according to its relevance to, and associations with, the particular dispute. A factor that proves to be the tipping point in one case might be less significant in another, depending on the factual matrix (*BDA v BDB* at [24]).

36 If the court concludes at stage one of the *Spiliada* test that there is no clearly or distinctly more appropriate forum, the court will ordinarily refuse a stay. If, however, the court concludes that there is some other available forum which prima facie is clearly or distinctly more appropriate, it will ordinarily grant a stay, unless there are circumstances by reason of which justice requires that a stay should nevertheless be refused (“stage two of the *Spiliada* test”). At stage two of the *Spiliada* test, the court will consider all the circumstances of the case, and the legal burden is on the plaintiff to establish the existence of those special circumstances to warrant the exercise of the court’s discretion to refuse a stay (*Eng Liat Kiang* at [19], *CIMB Bank Bhd* at [26], *BDA v BDB* at [22]).

30 With these broad principles in mind, I turn now to explain my analysis of the connecting factors that were relevant to this application.

Parties’ bankruptcy status

31 The Husband pointed out that both parties were recently adjudged bankrupt in Singapore. It was not in the best interests of the children to have

both parents bankrupt and have their finances limited in Singapore when they had the extended family's support in Malaysia.⁶¹

32 However, I did not see how the parties' bankruptcy could, in any principled way, be a factor in favour of a stay on the ground of *forum non conveniens*. Although framed in the language of the children's welfare, the underlying tenor of the Husband's argument suggested an intention to evade the obligations that flow from his bankruptcy in Singapore. This is not a legitimate forum-convenience consideration.

33 In my judgment, the fact of bankruptcy did not justify a stay; if anything, it strengthened the connection to Singapore. As parties were bankrupts and subject to the supervision of the Official Assignee, their legal obligations, financial disclosures, and movement restrictions were all anchored in Singapore.

34 Pertinently, the division of matrimonial assets could not be divorced from the bankruptcy regime, which necessitated ascertaining the extent of the bankrupt's estate and ensuring proper supervision by the Official Assignee. As noted in *AVM v AWH* [2015] SGHC 194 (at [115]), only assets which have not vested in the Official Assignee can be divided. There are also statutory restrictions on the disposition of property by a bankrupt: see s 328 of the Insolvency, Restructuring and Dissolution Act 2018; *Cheo Sharon Andriesz v Official Assignee of the estate of Andriesz Paul Matthew, a bankrupt* [2013] 2 SLR 297. The parties' bankruptcy also had a direct bearing on the issue of maintenance since their financial capacity, the extent of their liabilities, and the constraints imposed by the bankruptcy regime were all matters that had to be considered. These were interlocking inquiries that the Singapore court was uniquely positioned to determine.

⁶¹ Husband's Written Submissions dated 14 October 2025 at [30].

35 Far from supporting a stay on the ground of *forum non conveniens*, the parties' bankruptcy entrenched Singapore as the more appropriate forum and weighed against any stay.

Personal connection

36 The Husband submitted that Malaysia was the more appropriate forum due to parties' roots to Malaysia. They were originally Malaysians, and all their extended families remain living in Malaysia. The parties had moved to Singapore in search of better opportunities for business and stayed for some time in Singapore due to the Husband's successful business at that time. Even when parties were living in Singapore, they travelled between Malaysia and Singapore regularly.⁶²

37 The Husband said that when the parties wanted to relocate to Australia but could not do so due to the change in immigration policy in Australia, the parties' first step was to move back to Malaysia rather than Singapore. The parties then lived in HF's house. During this period, [A] and [Z] attended international school and [N] attended a local pre-school.⁶³

38 The Husband submitted that this would have been the *status quo* if not for the fact that the parties got into a dispute with respect to the flat in Singapore. The Husband wanted to sell the flat as he needed liquidity for his business, but the Wife wanted to retain the flat. This dispute over the flat led to a series of quarrels and arguments which eventually led to the breakdown of their marriage.⁶⁴

39 The Husband said that the Wife had only moved to Singapore so that she could reside in the Singapore flat to stop him from trying to sell or surrender the

⁶² Husband's Written Submissions dated 14 October 2025 at [18].

⁶³ Husband's Written Submissions dated 14 October 2025 at [19].

⁶⁴ Husband's Written Submissions dated 14 October 2025 at [20].

flat back to the HDB.⁶⁵ While he had some business interests in Singapore, he remained domiciled in Malaysia.⁶⁶ He explained that his business had failed in Singapore and his recourse was to head back to Malaysia to try to build up his business again with the support of his father,⁶⁷ so that he could eventually repay his debt and discharge his bankruptcy.⁶⁸

40 The Wife said that the parties had always intended Singapore as their permanent home.⁶⁹ Prior to purchasing the matrimonial flat, they stayed in rented private properties in Singapore and had several cars, either bought or rented in Singapore.⁷⁰ They did not rent out their matrimonial flat even when they left for Perth.⁷¹

41 The Wife pointed out that all the Husband's businesses were in Singapore.⁷² He incorporated four companies in Singapore⁷³ and travelled frequently between Malaysia and Singapore for his businesses.⁷⁴ [HC1] was active for 10 years from 2015 to 2025 before it went into liquidation on 7 February 2025.⁷⁵

⁶⁵ Husband's Written Submissions dated 14 October 2025 at [23].

⁶⁶ Husband's Written Submissions dated 14 October 2025 at [24].

⁶⁷ Husband's Written Submissions dated 14 October 2025 at [27].

⁶⁸ Husband's Written Submissions dated 14 October 2025 at [30].

⁶⁹ Wife's Written Submissions dated 14 October 2025 at [43].

⁷⁰ Wife's Written Submissions dated 14 October 2025 at [42].

⁷¹ *Ibid.*

⁷² Wife's Written Submissions dated 14 October 2025 at [33].

⁷³ Wife's Written Submissions dated 14 October 2025 at [34].

⁷⁴ Wife's Written Submissions dated 14 October 2025 at [37].

⁷⁵ Wife's Written Submissions dated 14 October 2025 at [39].

42 The Wife also pointed out that as a bankrupt, the Husband was not allowed to leave Singapore without the permission of the Official Assignee. The Husband did not explain why he was still in Malaysia having renounced his Malaysian citizenship nor did he explain how he had managed to leave Singapore as a bankrupt.⁷⁶

43 As the facts in *XLV v XLW* bore some similarity to the present case, Justice Teh's analysis of the parties' personal connection in that case provided useful guidance. Noting that nationality alone should not determine forum choice and greater focus should be placed on domicile or habitual residence, the learned judge reasoned as follows:

37 I deal first with the personal connection of the parties to the competing forums. I agree with the DJ's conclusion that the parties' domicile and personal connections to Singapore are factors that lean in favour of Singapore as the more appropriate forum. While the parties' early history shows ties to China, after relocating from China to Singapore in 2002 and solemnising their marriage at the Singapore Chinese Embassy in 2007, the life choices that they made demonstrate a clear commitment to settle down as a family in Singapore.

38 The Husband renounced his Chinese citizenship in 2014 and became a Singapore citizen. As for the Wife, her maintenance of her Singapore PR status since 2009 indicates her own connection to Singapore. More pertinently, the depth of the parties' connection to Singapore is evinced by their continuous residence here since 2002 until recent years, their acquisition of a matrimonial flat, and their decision to raise and educate both of the Children in Singapore.

44 Likewise, the parties' domicile and personal relocation history in the present case also pointed towards Singapore as the more appropriate forum. The Wife's account that the Husband had proposed relocating to Singapore and making Singapore their permanent home was corroborated by the undisputed

⁷⁶ Wife's Written Submissions dated 14 October 2025 at [25].

fact they did indeed move to Singapore, obtain Singapore citizenship, and renounce their Malaysian citizenship. Their subsequent move to Australia for about a year did not, on the evidence, suggest any intention to abandon their Singapore domicile in favour of an Australian one.

45 While the family later returned to Malaysia, there was no clear indication that they intended to re-establish domicile or settle permanently in Malaysia. At all material times, they remained Singapore citizens; the Husband continued to have business interests in Singapore; and both parties were bankrupt, which meant that they were not permitted to leave Singapore without the consent of the Official Assignee. The Husband's decision to remain in Malaysia appeared, on balance, to have been driven by a desire to evade his bankruptcy obligations than by any genuine or settled intention to re-establish his domicile in Malaysia. The Wife, on the other hand, had returned to Singapore with the two older children to live in the matrimonial flat.

46 Taken together, the evidence pointed to Singapore as the jurisdiction with the closest and most real connection to the parties.

47 The Husband further argued that the Wife ought to have taken out a relocation application but this had not been done to date. Hence, he argued that the Wife's move to Singapore was not meant to be permanent.⁷⁷

48 I did not find this submission persuasive. Given that both parties are Singapore citizens and that the children themselves hold dual citizenship, it was unclear why a relocation order would be required in the first place. The Wife

⁷⁷ Husband's Written Submissions dated 14 October 2025 at [29].

and the children, being Singapore citizens with their established home in Singapore, were simply returning home.

Proceedings in Malaysia

49 As noted *XLV v XLW* (at [54]):

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

50 The Husband submitted that there were already ongoing children and matrimonial proceedings in Malaysia. Both parties had filed applications in the Malaysian courts and thereby submitted to the Malaysian jurisdiction.⁷⁸

51 However, I noted that the Malaysian divorce proceedings were commenced several months after the Singapore divorce proceedings were initiated. Significantly, the Husband was not only aware of the Singapore divorce proceedings but had actively participated in them – he had even filed a cross-application for divorce in Singapore, which he now oddly sought to stay. As his decision to commence parallel divorce proceedings in Malaysia was entirely elective, any concern about duplication of resources or perceived risk of conflicting decisions was a situation entirely of his own making.

⁷⁸ Husband’s Written Submissions dated 14 October 2025 at [17].

52 It is trite law that little, or no weight will be given to the fact that there are foreign proceedings if they are commenced for strategic reasons to bolster the case of a clearly more appropriate forum elsewhere: see *Harlsbury's Law of Singapore – Conflict of Laws* (Volume 6(2)) (LexisNexis) at [75.109].

53 In my view, it would not be correct to allow the Husband to rely on the risk that he himself had created to stay the Singapore divorce proceedings. This could not be a legitimate basis to support a stay. To borrow the words of Choo Han Teck J in *AQN v AQO* [2015] 2 SLR 523 (at [11]), “it lies not in the mouth of the husband to rely on the rule against duplicitous proceedings having commenced the action in [Indonesia] himself”. Accordingly, I gave no weight to the parallel divorce proceedings in Malaysia.

54 Aside from the divorce proceedings, there were also ongoing proceedings relating to the children in Malaysia. Although the Husband’s stay application was directed at the Singapore divorce proceedings, I accepted that there was some overlap of issues between the Singapore divorce proceedings and the Malaysian proceedings relating to the children, as the ancillary matters in the Singapore divorce proceedings included custody and maintenance issues.

55 The Husband submitted that the Wife had clearly taken steps in Malaysia by filing JB-[X2] on 12 November 2024 and an *ex-parte* application on 13 January 2025 for interim custody of the children.⁷⁹ The Malaysian proceedings were filed first and were currently at a more advanced stage where parties were proceeding towards a contested hearing fixed on 12 December 2025. Given that there could potentially be conflicting orders made to the custody, care and

⁷⁹ Husband’s Written Submissions dated 14 October 2025 at [10] and [12].

control of the children, the Husband submitted that the Singapore proceedings ought to be stayed.⁸⁰

56 Citing the case authority of *TDX v TDY* [2015] 4 SLR 982, a seminal decision of the Family Division which sets out the principles applicable to stay applications specific to custody proceedings, the Husband contended that Malaysia would be the more effective forum to determine the best interests of the children.⁸¹

57 However, given that the core issue before me was the dissolution of the marriage, I did not consider that the overlapping children-related issues materially advanced the Husband's stay application. The mere existence of custody proceedings abroad did not, without more, justify staying the Singapore divorce proceedings, particularly when the Husband had already participated in the Singapore action and had himself filed an application for access to [A] and [Z] *vide* SUM 888.

58 Furthermore, the paramount consideration in any custody proceedings is the welfare of the child. As noted in Debbie Ong, *International Issues in Family Law in Singapore* (Academy Publishing, 2015) at page 244:

Custody disputes are unique because the paramount consideration is the welfare of the child. It is not surprising that despite a prior foreign custody order, the court, guided by the welfare principle, may be willing to re-open a custody dispute and determine the case on its merits. The Privy Council, in *Mark T Mckee V Evelyn McKee*, a case on appeal from the Supreme Court of Canada, had held years ago that it is the negation of the welfare principle not to enter into the merits of the question afresh, even where there is a foreign order in existence. Lord Simonds held:

⁸⁰ Husband's Written Submissions dated 14 October 2025 at [12].

⁸¹ Husband's Written Submissions dated 14 October 2025 at [25].

But it is the negation of the proposition, from which every judgment in this case has proceeded, namely, that the infant's welfare is the paramount consideration, to say that where the trial judge has in his discretion thought fit ... to examine all the circumstances and form an independent judgment, his decision ought for that reason to be overruled. Once it is conceded that the court of Ontario had jurisdiction to entertain the question of custody and that it need not blindly follow an order made by a foreign court, the consequence cannot be escaped that it must form an independent judgment on the question, though in doing so it will give proper weight to the foreign judgment. What is the proper weight will depend on the circumstances of each case.

59 Given that a Singapore court is not bound by a prior foreign custody order and is obliged under the welfare principle to examine child-related issues afresh in accordance with the welfare principle, the existence of the children proceedings in Malaysia did not justify staying the Singapore divorce proceedings. In any event, the Singapore court may accord appropriate weight to a foreign custody order in the analysis of what would be in the best interests of a child. As noted in *XLK v XLJ* [2025] SGHC(A) 22 (at [40]):

The second question, regarding the weight to be accorded to foreign court orders in the analysis of what would be in the best interests of a child, is not a question of law: see *IW v IX* [2006] 1 SLR(R) 135 at [25]–[28]; see also *TUC v TUD* [2017] 4 SLR 1360 at [20]–[21]. At its highest, this argument contends that the court should not have given significant weight to the foreign court orders in applying the welfare principle to the facts of the present case. However, it is well-established that the welfare principle requires the court to consider a multitude of factors, and the weight to be given to any one factor involves a fact-sensitive value judgment: see *BNS v BNT* at [20] and *TSF v TSE* at [52].

60 For the above reasons, I did not find the existence of the parallel proceedings in Malaysia to favour a stay.

Location of matrimonial assets

61 It is trite that the location of the matrimonial assets is a relevant consideration in a stay application. The following observations of the court in *AZS v AZR* [2013] SGHC 102 (“*AZS v AZR*”) (at [21]) bear this out clearly:

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

62 The Husband submitted that the only matrimonial asset was the HDB flat in Singapore and that the Wife could commence separate proceedings under s 121B of the Women’s Charter 1961 to deal with the HDB flat after the Malaysian divorce had been adjudicated.⁸²

63 I did not think that this was a persuasive argument. Splitting the resolution of the parties’ matrimonial issues across two jurisdictions would fragment the proceedings and multiply costs. Moreover, the division of matrimonial assets is ordinarily addressed as part of the ancillary matters flowing from the divorce. There was no sensible basis for compelling the Wife to pursue a piecemeal approach when the Singapore court was already properly seized of the entire dispute. In this regard, the following observations of the court in *Mala Shukla v Janyant Amritanda Shukla* [2002] 1 SLR(R) 920 (at [57]) bear reiterating:

As Lee Seiu Kin JC said in *Low Wing Hong Alvin v Kelso Sharon Leigh* [1999] 3 SLR(R) 993 at [21]:

⁸² Husband’s Written Submissions dated 14 October 2025 at [28].

it is more important that the same court consider and decide these matters [meaning the divorce and ancillary matters such as custody and access] than to divide the issues to be decided in separate courts simply because the assets are in another jurisdiction.

64 Furthermore, the matrimonial flat was not the only asset in Singapore. As contended by the Wife, the matrimonial assets included CPF monies and various companies.⁸³

65 Although the Wife had asserted that all the assets were in Singapore⁸⁴ and that the parties never bought or owned any property in Malaysia during the marriage,⁸⁵ the Husband claimed that they had two condominiums in Malaysia⁸⁶ and his primary business was in Malaysia.⁸⁷

66 Accepting the Husband's claim as it was, the location of these assets in Malaysia was at best a neutral factor given that there were also matrimonial assets located in Singapore.

Availability of witnesses

67 The Husband claimed that all the witnesses pertaining to the divorce were located in Malaysia.⁸⁸ This was disputed by the Wife as a bare allegation.⁸⁹ The Wife pointed out that the Husband did not establish what the dispute was, if any, that warranted the calling of witnesses or did his pleadings for divorce

⁸³ Wife's Affidavit dated 19 September 2025 (W1) at [174].

⁸⁴ Wife's Affidavit dated 19 September 2025 (W1) at [174].

⁸⁵ Wife's Affidavit dated 19 September 2025 (W1) at [80].

⁸⁶ Husband's Affidavit (SUM 1875) dated 13 August 2025 (H1) at [2(a)(xxxii)].

⁸⁷ Husband's Affidavit (SUM 1875) dated 13 August 2025 (H1) at [2(a)(xxxi)].

⁸⁸ Husband's Affidavit (SUM 1875) dated 13 August 2025 (H1) at [2(a)(xxvii)].

⁸⁹ Wife's Written Submissions dated 14 October 2025 at [65(1)].

involved any witnesses.⁹⁰ Even if there were any, they could always travel to Singapore to testify or provide evidence *via* video-link.⁹¹ The Wife said that her witnesses and documents were in Singapore. Travelling to Malaysia for the Wife would be difficult due to her bankruptcy, travel restrictions, and sole caregiving responsibilities for [A] and [Z]. The children would be left alone at home and she would require leave from work as she had been working since the Husband had refused to maintain the family.⁹²

68 While the availability of witnesses is a relevant connecting factor (for example, see *AZS v AZR* (at [11(a)])), it has also been observed that “the place of residence of witnesses may not be a significant issue in the light of the easy availability of video conferencing”: see *Sanjeev Sharma s/o Shri Saryjeet Sharma v Surbhi Ahuja d/o Sh Virendra Kumar Ahuja* [2015] 3 SLR 1056 (at [24]), citing the Court of Appeal’s decision in *CIMB Bank Bhd v Dresdner Kleinwort Ltd* [2008] 4 SLR(R) 543 (at [69]).

69 In the present case, the Husband’s assertion was vague and unparticularised. He did not identify the witnesses or explain why those witnesses could not travel to Singapore, or why their evidence could not be taken by video-link. In contrast, the Wife had clearly articulated her difficulties in travelling to Malaysia.

70 The availability of witnesses was, at best, neutral – and at worst, it leaned against the grant of a stay.

⁹⁰ Wife’s Written Submissions dated 14 October 2025 at [54(4)].

⁹¹ *Ibid.*

⁹² Wife’s Written Submissions dated 14 October 2025 at [54(5)].

Conclusion

71 For the reasons set out above, I found that the Husband had not discharged his burden of establishing that Malaysia was clearly or distinctly the more appropriate forum. Indeed, none of the connecting factors favoured a stay. Given that Stage 1 had not been satisfied, there was no necessity to proceed to Stage 2 of the *Spiliada test*: see *BDA v BDB* [2013] 1 SLR 607 (at [34]).

72 The application was therefore dismissed.

Chia Wee Kiat
District Judge

Ms Eunice Ong Ying Ting (Netto & Margin LLC)
for the Husband;
Ms Lim Lay See (LS Lim Law Practice)
for the Wife.
