IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGHCF 23

Divorce (Transferred) No 2222 of 2014
(Summons No 3577 of 2024)

Between

WGM

… *Plaintiff*

And

WGN

… *Defendant*

JUDGMENT

[Family Law — Matrimonial assets — Division]

WGM
v
WGN

[2025] SGHCF 23

General Division of the High Court (Family Division) — Divorce (Transferred) No 2222 of 2014 (Summons No 3577 of 2024)
Choo Han Teck J
3 April 2025

11 April 2025 Judgment reserved.

Choo Han Teck J:

1 This is the applicant husband's application for the court to determine the operative date for determining the pool of matrimonial assets (the "Determination Date") and the operative date for valuing the pool of matrimonial assets (the "Valuation Date"). The default position for the Determination Date and the Valuation Date is the interim judgment ("IJ") date and the ancillary matters hearing date, respectively – except for bank accounts and Central Provident Fund ("CPF") accounts, which are to be valued at the IJ date. Although the operative dates are typically determined at the ancillary matters hearing, the applicant seeks a determination now because of the unusual circumstances of this case.

2 The applicant, aged 64, is the founder and managing director of a company in the business of precision metal machining component

manufacturing (the "Company"). The respondent wife, aged 56, used to work for the Company and is now unemployed. The parties married on 27 July 1994 and have two children, aged 23 and 25 respectively. In late 2013, the respondent asked for a divorce. The parties entered into a deed of settlement on 3 April 2014 (the "Deed") to record their agreement to the terms of divorce. The respondent filed for divorce on 15 May 2024 and IJ was granted on 10 July 2014. Clause 3 of the IJ stated, *inter alia*, that the matrimonial assets were to be divided equally between both parties and that the applicant shall pay the respondent $9.3m (of which $3.7m had already been paid) as her share of the matrimonial assets. The ancillary matters were concluded by a consent order made pursuant to the Deed. On 30 October 2014, final judgment was granted and the parties' divorce concluded amicably. Both parties remarried shortly after and appeared to have moved on with their respective lives.

3 Almost six years after the parties' divorce, they commenced civil proceedings related to the Company against each other. The respondent filed a claim of minority oppression against the applicant in March 2020 and the applicant filed a claim of breach of trust against the respondent in April 2020. In the applicant's suit against the respondent, he also sought to recover $188,000 that the respondent had withdrawn from their joint bank account on 24 February 2020. Both suits were heard together and dismissed by the General Division of the High Court on 31 March 2023. The applicant appealed against part of the decision, *ie*, the dismissal of his claim for the $188,000 to be returned. The appeal was partially allowed by the Appellate Division on 26 October 2023. The respondent was ordered to return $59,237 to the applicant. This was the amount she had overdrawn in respect of the $9.3m payable under clause 3(d) of the IJ.

4 In the meantime, in May 2020, the applicant discovered that the older child was not his biological child. On 30 June 2020, the applicant filed

FC/SUM 1731/2020 ("SUM 1731") to set aside clause 3 of the IJ on the basis that there was fraudulent non-disclosure by the respondent in failing to disclose to him that the older child was not his biological child throughout the marriage and at the time the deed and IJ were entered into. The respondent maintained that she had long disclosed to the applicant that the older child was not his biological child. Nevertheless, the court found that it was unlikely that the respondent had made such a disclosure and set aside clause 3 of the IJ on the grounds of fraudulent non-disclosure on 3 December 2021. The respondent filed an appeal against the decision but withdrew it subsequently. Since clause 3 of the IJ was set aside, the parties filed their first affidavit of assets and means on 24 October 2023 in preparation for the ancillary matters to be heard.

5 On 12 January 2024, the respondent applied for discovery and obtained orders for the applicant to disclose the audited financial statements of the Company for the financial years of 2021 and 2022. She applied again *vide* FC/SUM 2185/2024 ("SUM 2185") and FC/SUM 2186/2024 ("SUM 2186") on 11 July 2024 for further information and documents on the Company's related-party transactions in its financial statements from 2012 to 2022. At the hearing, the applicant's former solicitors argued that there was no basis for the respondent to seek documents and information of the Company's related-party transactions up to 2022 since the parties divorced in 2014. However, on 30 September 2024, the Assistant Registrar ("AR") ordered certain financial statements and documents between 2019 and 2022 to be produced. The AR held that the Determination Date and Valuation Date must be decided by the judge hearing the ancillary matters. Since the operative dates had not been determined, the scope for discovery and interrogatories could not be limited to the IJ date. The applicant appealed against the AR's orders, and the appeals were directed to be heard after the present application has been heard.

6 The preliminary question before me is whether the Determination Date and Valuation Date should be determined in this application or at the ancillary matters hearing. The applicant says that the determination of the operative dates in this application will assist both parties in their relevant discovery and interrogatories for the appropriate period, save time and costs and allow the ancillary matters to be heard expediently. The applicant also claims that he might be prejudiced if the parties are ordered to produce documents and information which are not relevant to the division of matrimonial assets. He asserts that there is a "serious likelihood" that the documents and information disclosed may not be used solely for purposes of the ancillary matters. The applicant's counsel cites *CLD v CLE* [2021] SGHCF 12 ("*CLD v CLE*"), in which the court heard a similar application concerning the determination of the operative date for determining the pool of matrimonial assets before the ancillary matters hearing.

7 The respondent's position is that the present application is premature, and that the Determination Date and Valuation Date should be determined at the ancillary matters hearing. The respondent relies on rr 22(2) and 22(3)(*c*) of the Family Justice Rules 2014, saying that the court will only have the benefit of both parties' affidavits and oral evidence at the ancillary matters hearing. The respondent claims that the applicant only commenced the present application to evade the court's orders of production of documents in SUM 2185 and SUM 2186 because he wants to conceal evidence of his dissipation of matrimonial assets. The respondent says that the applicant should not be allowed to deprive her of the "fruits of her litigation" (citing *VOC v VOD* [2021] SGHCF 14 at [13]) by allowing the Determination Date and Valuation Date to be fixed on a date that would result in the applicant being able to avoid complying with the orders in SUM 2185 and SUM 2186. Furthermore, the

respondent says that the applicant has attempted to justify the application by referring to his alleged compliance with the IJ, yet the applicant had applied to set aside the IJ in his application *vide* SUM 1731. Therefore, the applicant should not be permitted to "have his cake and eat it".

8 Although the operative dates for the determination and valuation of matrimonial assets are typically determined during the ancillary matters hearing, I recognise that the facts of this case are unusual. The parties finalised their divorce more than ten years ago, and the ancillary matters are only being heard now because clause 3 of the IJ (which dealt with the parties' ancillary matters) was set aside in 2021. It is therefore logical to determine the Determination Date and Valuation Date before the ancillary matters hearing to prevent unnecessary costs incurred in complying with potentially onerous and unnecessary discovery orders. Furthermore, I disagree with the respondent that the applicant's reliance on the IJ date as the Determination Date and Valuation Date is incongruous with his application to set aside clause 3 of the IJ. Although the orders on ancillary matters have been set aside, both parties agree that the IJ date has not changed. This is clear from the parties' references to the "IJ date" as "10 July 2014" in their written submissions.

9 The applicant claims that the Determination Date should be the IJ date, *ie*, 10 July 2014. He says that the writ of divorce was filed on 15 May 2014, which was not long before the IJ and the final judgment was three months after the IJ, thus there is no significant difference in the pool of matrimonial assets between those dates. The applicant claims that "there are no cogent reasons to depart from the IJ date" as the parties' marital union had ended on the IJ date and their relationship after the divorce is "not relevant at all". The applicant asserts that there is no reason to use a date more than six years after their divorce, especially since both parties had remarried not long after. He also

claims that it is prejudicial to his current spouse to include assets acquired by him for the benefit of his new family in the pool of matrimonial assets with the respondent.

10 The respondent says that the Determination Date should be no earlier than March 2020 because this was when the parties' relationship broke down and the applicant "forced" the respondent to stop working at the Company. She relies on *CLD v CLE* at [23] (referring to *ARY v ARX and another appeal* [2016] 2 SLR 686 at [34]), which states that the crux of the assessment is when the marriage can be treated as "practically at an end". There are three indicia in this inquiry – that there is "no longer any matrimonial home, no *consortium vitae* and no right on either side to conjugal rights" (*CLD v CLE* at [23]). The respondent says that the first factor is irrelevant as the parties did not own any matrimonial home even during the marriage. She claims that the parties continued to have *consortium vitae* even after the divorce was finalised in October 2014 and that *consortium vitae* only terminated after the parties' fallout around March 2020. She substantiates her argument by saying that they continued to interact with each other regularly on a cordial basis after their divorce and ran the Company together as the boss and the "madam boss". The respondent listed her contributions to the Company and exhibited her messages with the applicant, claiming that they "still intermingled both their business interest and their family life" even until the end of 2019.

11 On this point, I prefer the applicant's evidence to the respondent's evidence. I am not inclined to accept the respondent's claim of *consortium vitae* even after the parties divorced in 2014. In the span of that one year, the respondent filed for divorce by consent, the parties signed the Deed, IJ was granted, ancillary matters were concluded by a consent order and final judgment was granted. There is no doubt that the marriage ended in 2014. In fact, the

respondent remarried on 1 April 2015 (roughly six months after the finalisation of her divorce with the applicant) and the applicant remarried sometime in May 2017. They had moved on with their lives, started their respective new families and clearly did not share a conjugal relationship anymore. The fact that they were able to communicate amicably for the sake of their children and run the Company as business partners did not mean that their marital union subsisted. The respondent's contributions to the Company were made in her capacity as an employee, not as a spouse. Accordingly, there is no cogent reason to depart from the default position of adopting the IJ date as the Determination Date.

12 The next issue is the determination of the Valuation Date. The default position for the valuation of matrimonial assets is the date of the ancillary matters hearing, save for the parties' bank accounts and CPF accounts which are to be valued at the IJ date (*UYP v UYQ* [2020] 3 SLR 683 at [4]).

13 The applicant claims that the court should depart from the starting position and value all the matrimonial assets including the non-money assets (*eg*, investments, insurance policies, shares in the Company and properties) at the IJ date. He cites two cases in which the court departed from the default position. In *TDT v TDS and another appeal and another matter* [2016] 4 SLR 145 ("*TDT v TDS*") at [50], the court held that it was appropriate to value the company's shares on a date prior to the breakdown of the parties' marriage as there was a "not negligible possibility" that the husband had managed the company's finances to the wife's detriment. The husband also alleged that the wife had diverted the business of the company. In *Wan Lai Cheng v Quek Seow Kee and another appeal and another matter* [2012] 4 SLR 405 ("*Wan Lai Cheng*") at [71], the court valued the matrimonial properties at a date before the

ancillary matters hearing because the husband had increased the liabilities of the matrimonial assets in a manner that was not done for the family's benefit.

14 Further, the applicant raises four arguments in support of his position. First, he says that the parties had considered the value of the matrimonial assets when they entered into the Deed in April 2014. Both parties had agreed to divide the matrimonial assets based on the values at that time. Second, he claims that the appropriate date to value the assets should be the IJ date, prior to the civil proceedings between the parties in February 2020. He refers to *TDT v TDS* and says that the Valuation Date should be "a date prior to any actions being taken by parties which may affect the value of the assets". Third, the value of the Company and the parties' personal assets have changed over the past ten years. The applicant says that he had dealt with his assets without considering the possibility that these assets would one day be valued differently from the IJ date. Fourth, he says that his use of his personal funds after the divorce cannot be treated as a dissipation of the pool of matrimonial assets. He emphasises that the respondent had already received the sum of $9.3m under clause 3(d) of the IJ, as found by the Appellate Division on 26 October 2023.

15 The respondent's position is that the Valuation Date should be the date of the ancillary matters hearing because the applicant does not have "cogent reasons" to depart from the default position. She says that since the Company was incorporated during their marriage, it is trite that the shares of the Company form part of the pool of matrimonial assets. She claims that the rapid increase in the related-party transactions in the short span of three years (between 2019 and 2022) suggests that the applicant has been diverting the financial resources of the Company to related parties under his influence or control to reduce the matrimonial assets for division. She says that it would be "eminently unfair" to her should the valuation of assets not take into account her contributions

towards the Company's assets and share value even after their marriage ended in 2014.

16 The cases cited by the applicant are of little assistance because the facts of the present case differ significantly from those cases. In *TDT v TDS* and *Wan Lai Cheng*, the court departed from the default position to account for the party's possible dissipation of assets between the time of the breakdown of the marriage and the ancillary matters hearing. In other words, the parties alleging the dissipation in those cases were asking for the operative date to be earlier than the ancillary matters hearing date. Ironically, the respondent in this case is arguing that the operative date should be the ancillary matters hearing date so that the applicant cannot take advantage of his alleged dissipation of matrimonial assets after their divorce. This raises the question of whether there were even any matrimonial assets to be dissipated between 2019 and 2022.

17 I have no hesitation in accepting that the IJ was on 10 July 2014 and the final judgment for divorce was granted on 30 October 2014. The respondent herself has admitted multiple times in her written submissions that "the divorce was finalised" in 2014. With these dates being incontrovertible facts, it is difficult to see how the applicant's assets as of 2019 could constitute "matrimonial assets". It follows that the applicant's management of his personal assets or financial resources of the Company after 2014 cannot be considered a reduction of the pool of matrimonial assets. In fact, the parties had long agreed to divide their assets based on their values in 2014 when they filed their consent order. The date of valuation should not change just because clause 3 of the IJ has been set aside and the ancillary matters must now be heard. To hold otherwise would be to allow the respondent to take advantage of any growth in the applicant's assets owing to his sole efforts after their divorce. In the circumstances, I agree with the applicant that it would be just and equitable to

adopt the IJ date as the operative date for the valuation of all matrimonial assets in this case.

18 For the reasons above, I find that the Determination Date and Valuation Date are the parties' IJ date, *ie*, 10 July 2014. Costs are reserved.

- Sgd -
Choo Han Teck
Judge of the High Court

Lim Tat, Subir Singh Grewal and Wang Tianyi (Aequitas Law LLP) for the plaintiff/wife;
See Tow Soo Ling, Hu Huimin and Shann Liew Zi Xuan (CNPLaw LLP) for the defendant/husband.