

**IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE**

**[2025] SGHCF 35**

Registrar's Appeal from the Family Justice Courts No 23 of 2024  
(Summonses Nos 58 and 70 of 2025)

Between

XLV

*... Appellant*

And

XLW

*... Respondent*

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**JUDGMENT**

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[Family Law — Matrimonial proceedings — Jurisdiction]  
[Conflict of Laws — Natural forum]

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**XLV**

**v**

**XLW**

**[2025] SGHCF 35**

General Division of the High Court (Family Division) — Registrar’s Appeal from the Family Justice Courts No 23 of 2024 (Summonses Nos 58 and 70 of 2025)

Teh Hwee Hwee J

10 April, 9 May 2025

2 June 2025

Judgment reserved.

**Teh Hwee Hwee J:**

### **Introduction**

1 This is an appeal by the appellant wife (“the Wife”) against the decision of the learned District Judge (“the DJ”) to dismiss the Wife’s application to stay divorce proceedings commenced by the respondent husband (“the Husband”) in FC/D 4543/2023 (“the Singapore proceedings”).<sup>1</sup>

### **Facts**

2 The parties met sometime in China in 2002 and relocated to Singapore shortly thereafter. They registered their marriage at the Chinese Embassy in

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<sup>1</sup> Record of Appeal (“ROA”) Vol 1 at pp 55–79: Decision for FC/SUM 3536/2023 dated 3 December 2024 (“GD”).

Singapore on 31 October 2007.<sup>2</sup> The Husband is 45 years old. He was a Chinese citizen until he acquired his Singapore citizenship in 2014.<sup>3</sup> The Wife is 42 years old. She is a Chinese citizen and has been a Singapore Permanent Resident (“PR”) since 2009.<sup>4</sup> They have two children, aged 14 and 11 (“C1” and “C2” respectively, and collectively, the “Children”).<sup>5</sup>

3 The Husband commenced the Singapore proceedings on 21 September 2023.<sup>6</sup> Service was effected on the Wife on 13 October 2023,<sup>7</sup> and appearance was entered by the Wife on 3 November 2023.<sup>8</sup> On 17 November 2023, the Wife applied by way of FC/SUM 3536/2023 (“SUM 3536/2023”) for the Singapore proceedings and all applications in those proceedings to be stayed on the ground of *forum non conveniens*, and for an extension of time to file her Defence and Counterclaim in the event that the stay is not granted.<sup>9</sup>

4 Shortly after the Husband commenced the Singapore proceedings, the Wife took legal action in China. On 21 November 2023, the Dalian Zhongshan District People’s Court (“the Dalian Court”) issued an investigation order in relation to an altercation between the Wife and a third party identified by the

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<sup>2</sup> Appellant’s Written Submissions dated 21 January 2025 (“AWS”) at para 3.

<sup>3</sup> ROA Vol 3 at p 9: Wife’s Affidavit filed on 17 November 2023 at para 10; Husband’s Statement of Particulars dated 18 September 2023 at p 9.

<sup>4</sup> ROA Vol 3 at p 8: Wife’s Affidavit filed on 17 November 2023 at para 5; GD at [3].

<sup>5</sup> ROA Vol 3 at pp 6–7: Wife’s Affidavit filed on 17 November 2023 at para 2(b); Husband’s Statement of Particulars dated 18 September 2023 at p 11–12; GD at [4].

<sup>6</sup> Writ for Divorce in FC/D 4543/2023 dated 21 September 2023.

<sup>7</sup> Memorandum of Appearance (Defendant) in FC/D 4543/2023 filed on 3 November 2023 at para 1.

<sup>8</sup> Memorandum of Appearance (Defendant) in FC/D 4543/2023 filed on 3 November 2023.

<sup>9</sup> Summons for Stay of Proceedings (Forum Non Conveniens) filed on 17 November 2023.

Wife to have cohabited with the Husband (the “Third Party”).<sup>10</sup> This was followed by proceedings taken out in the Shijingshan District People’s Court of Beijing Municipality (“Third-Party Proceedings”) by the Wife in relation to a “[g]ift contract dispute” between the Wife (as the plaintiff), the Third Party (as the defendant) and the Husband (as an additional party in that action) for the return of properties the Wife claimed the Husband had given to the Third Party.<sup>11</sup> The exact nature and status of the Chinese proceedings were disputed before the DJ. I will return to this later in this judgment.

### **The DJ’s decision and the appeal**

5 SUM 3536/2023 was heard by the DJ on 26 March 2024, 16 May 2024 and 18 June 2024.<sup>12</sup> The DJ dismissed SUM 3536/2023 on 3 December 2024, rejecting the Wife’s contention that China is the more appropriate forum for resolving the parties’ matrimonial dispute. In coming to his decision, the DJ considered that the parties and their Children were more closely connected to Singapore.<sup>13</sup> He found that the evidence shows that the parties had intended to start their family in Singapore and, having been here for around 20 years, have clearly settled down in Singapore.<sup>14</sup> In his consideration, the DJ attached substantial weight to the Singapore courts being best placed to make the requisite orders regarding the Children.<sup>15</sup> While the DJ noted the existence of concurrent proceedings in China, he found that the Chinese proceedings were

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<sup>10</sup> ROA Vol 3 at p 86.

<sup>11</sup> ROA Vol 3 at pp 395–399.

<sup>12</sup> GD at [8], [9] and [14].

<sup>13</sup> GD at [38] and [48].

<sup>14</sup> GD at [33] and [37].

<sup>15</sup> GD at [53] and [80].

not in a more advanced stage than the Singapore proceedings,<sup>16</sup> and that there was little risk of conflicting judgments after considering the exact nature of the Third-Party Proceedings.<sup>17</sup>

6 Before me is the Wife’s appeal in HCF/RAS 23/2024 (“RAS 23”) against the DJ’s decision. Prior to the hearing of the appeal, the Wife filed an application in HCF/SUM 58/2025 (“SUM 58”) to adduce fresh evidence for the purposes of the hearing of the appeal.<sup>18</sup> The Husband also filed an application in HCF/SUM 70/2025 (“SUM 70”) to adduce fresh evidence, and to seek an immediate return of a sum of \$1,740,000 that the Wife transferred out from the parties’ joint bank account in January 2023.<sup>19</sup> I heard the parties’ applications in SUM 58 and SUM 70 together with the appeal in RAS 23 on 10 April 2025. At the hearing before me, the Husband withdrew the prayer in SUM 70 for the return of the sum of \$1,740,000. For the reasons set out in this judgment, I allow the Wife’s application in SUM 58, dismiss the Husband’s application in SUM 70 and dismiss the Wife’s appeal in RAS 23.

7 I turn first to deal with the parties’ applications to adduce further evidence for the hearing of RAS 23.

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<sup>16</sup> GD at [79].

<sup>17</sup> GD at [78].

<sup>18</sup> HCF/SUM 58/2025 in HCF/RAS 23/2024 filed on 3 March 2025 (“SUM 58”).

<sup>19</sup> HCF/SUM 70/2025 in HCF/RAS 23/2024 filed on 10 March 2025 (“SUM 70”).

## Applications to adduce fresh evidence

### *SUM 58*

8 The Wife filed SUM 58 on 3 March 2025 for leave to adduce fresh evidence pertaining to the court proceedings in China.<sup>20</sup> She seeks to admit three documents (collectively, the “Wife’s Documents”):<sup>21</sup>

(a) A notification of hearing of a “dispute over community property division between [the Wife and the Husband]” at the 17th Court (Northern Area) of Beijing Xicheng Primary People’s Court (“Community Property Proceedings”) fixed on 28 March 2025 (“Document 1”).<sup>22</sup>

(b) A civil judgment released by the Shijingshan District People’s Court of Beijing Municipality dated 24 December 2024 in relation to the Third-Party Proceedings<sup>23</sup> (“Document 2”).<sup>24</sup>

(c) A civil summons of the Beijing No. 4 Intermediate People’s Court relating to a “dispute over a gift contract”, with the hearing date

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<sup>20</sup> Wife’s Affidavit dated 28 February 2025 at para 4(b).

<sup>21</sup> Wife’s Affidavit dated 28 February 2025 at paras 5–8 and pp 5–23; Affidavit of [Translator X] dated 3 March 2025 at pp 26–38.

<sup>22</sup> Wife’s Affidavit dated 28 February 2025 at pp 6–7; Affidavit of [Translator X] dated 3 March 2025 at pp 26–27.

<sup>23</sup> Wife’s Affidavit dated 28 February 2025 at p 9; Affidavit of [Translator X] dated 3 March 2025 at p 28.

<sup>24</sup> Wife’s Affidavit dated 28 February 2025 at pp 9–21; Affidavit of [Translator X] dated 3 March 2025 at pp 28–37.

fixed on 6 March 2025 (“Document 3”).<sup>25</sup> This relates to an appeal against the judgment mentioned at [8(b)] above.

*Parties’ arguments*

9 The Wife argues that these documents relate to events which occurred after the DJ’s decision on 3 December 2024.<sup>26</sup> Further, she submits that they are potentially material to the issues that she has raised in the appeal. She contends that the evidence contradicts the DJ’s finding that there “did not appear to be the commencement of divorce proceedings between the parties”.<sup>27</sup> Additionally, she asserts that Documents 2 and 3 comprise evidence that relates to the reasons leading to the breakdown of the parties’ marriage.<sup>28</sup> She also argues that this supports her contention that the evidence would be more readily available in China than in Singapore.<sup>29</sup>

10 In response, the Husband contends that the fresh evidence that the Wife is seeking to adduce pertains to incomplete matters and constitutes partial evidence.<sup>30</sup> His arguments are threefold. First, he argues that the proceedings evinced in Document 1 were fixed for hearing on 28 March 2025, with no outcome yet determined.<sup>31</sup> In relation to the Third-Party Proceedings referred to

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<sup>25</sup> Wife’s Affidavit dated 28 February 2025 at p 23; Affidavit of [Translator X] dated 3 March 2025 at p 38.

<sup>26</sup> Wife’s Written Submissions for SUM 58 & SUM 70 dated 28 March 2025 (“WWS”) at para 14.

<sup>27</sup> WWS at para 17; GD at [66].

<sup>28</sup> WWS at para 18.

<sup>29</sup> WWS at para 18.

<sup>30</sup> Husband’s Written Submissions for SUM 58 & SUM 70 dated 9 April 2025 (“HWS”) at para II(A)(7).

<sup>31</sup> HWS at para (II)(A)(2)(a).



in Documents 2 and 3, he highlights that the Third Party has appealed against the judgment, and the appeal remains pending before the Chinese courts.<sup>32</sup> On this basis, the Husband maintains that these matters are “part-heard”.<sup>33</sup> Second, and relatedly, he argues that these documents are partial evidence and, drawing parallels with *Jurong Town Corp v Wishing Star Ltd* [2004] 2 SLR(R) 427 (“*JTC v Wishing Star*”), submits that it would be inappropriate for the court to reach any conclusion based on such evidence.<sup>34</sup> Third, referring to principles established in *Yeo Chong Lin v Tay Ang Choo Nancy and another appeal* [2011] 2 SLR 1157 (“*Yeo Chong Lin*”) and *TSF v TSE* [2018] 2 SLR 833 (“*TSF v TSE*”), the Husband contends that the Wife’s Documents lack the requisite perceptible impact on the decision to warrant admission in the interest of justice.<sup>35</sup> He emphasises that the proceedings referenced in Document 1 concern a dispute over community property, analogous to Section 56 of the Women’s Charter 1961 (2020 Rev Ed) (“Women’s Charter”), rather than divorce proceedings.<sup>36</sup>

### *Analysis and decision*

11 Section 22(5) of the Supreme Court of Judicature Act 1969 (2020 Rev Ed) (“SCJA 2020”) allows further evidence to be given to the General Division of the High Court (which includes the Family Division of the High Court)<sup>37</sup> on an appeal without the permission of the court, if the evidence

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<sup>32</sup> HWS at paras II(A)(2)(b) and II(A)(2)(c).

<sup>33</sup> Minute Sheet of hearing on 10 April 2025.

<sup>34</sup> HWS at paras II(A)(3) and II(A)(7).

<sup>35</sup> HWS at para II(A)(6).

<sup>36</sup> HWS at para II(A)(2)(a).

<sup>37</sup> Under s 4(1) of the Family Justice Act 2014, the Family Division of the High Court is a division of the General Division of the High Court.

relates to matters occurring after the date of the decision appealed against. As observed in *BNX v BOE and another appeal* [2018] 2 SLR 215 (“*BNX v BOE*”) at [97], even in relation to further evidence as to matters that have occurred after the date of the decision being appealed against, the underlying interest in upholding finality in litigation should nonetheless be protected. In this regard, the appellate court has power under r 831(1) of the Family Justice Rules 2014 (as in force immediately before 15 October 2024) (“FJR 2014”) (and also Part 19, Rule 9(6) of the Family Justice (General) Rules 2024 (“FJR 2024”)) to determine whether to receive on appeal further evidence given as to matters that have occurred after the date of the trial or hearing. The test for admitting fresh evidence relating to matters that occurred after the date of the decision from which the appeal is brought is whether the further evidence would have a “perceptible impact on the decision such that it is in the interest of justice that it should be admitted”, as set out in *TSF v TSE* at [43]–[44], citing *Yeo Chong Lin* at [13] and *TDT v TDS and another appeal and another matter* [2016] 4 SLR 145 at [25], and referring to the elaboration of the test in *BNX v BOE* at [99]–[100]. The Court of Appeal in *BNX v BOE* held at [99] that in deciding whether the further evidence would have a perceptible impact on the decision, the court should:

- (a) ascertain what the relevant matters are, of which evidence is sought to be given, and ensure that these are matters that occurred after the trial or hearing below;
- (b) satisfy itself that the evidence of these matters is at least potentially material to the issues in the appeal; and
- (c) satisfy itself that the material at least appears to be credible.

12 Having considered the test set out above, I admit the Wife's fresh evidence set out at [8] above.

13 The Wife's Documents relate to matters which occurred after the hearing below as they are all dated after the DJ's decision on 3 December 2024. I am satisfied that the Wife's Documents would have a "perceptible impact" on the decision (*TSE v TSE* at [43]), given that the evidence would be potentially material to the issue of parallel proceedings. The Wife's Documents pertain to court proceedings in China that relate to the parties' properties and the gifting of such properties to the Third Party. These documents would be relevant in the court's assessment of the nature of the proceedings in China, as well as the degree of overlap with the Singapore proceedings. The Wife's Documents also at least appear to be credible as they were either issued by the Ministry of Justice of the People's Republic of China, or official documents from the Chinese courts. I also note that the Husband did not raise any issues of credibility in relation to the Wife's Documents.

14 I am unpersuaded by the Husband's submission that the Wife's Documents are not relevant because the Chinese proceedings are "part-heard". The fact that there is an appeal pending against the judgment in relation to the Third-Party Proceedings does not render those proceedings part-heard, as the Shijingshan District People's Court of Beijing Municipality has made a determination after hearing all of the evidence. In relation to the Husband's argument that the documents constitute partial evidence,<sup>38</sup> the Husband's reliance on the case of *JTC v Wishing Star* is also flawed. In *JTC v Wishing Star*, the fresh evidence that the appellant sought to admit was the evidence given at the trial by the respondent's managing director (at [25]). The court, in

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<sup>38</sup> HWS at para II(A)(3) and II(A)(7).

dismissing the application, considered that the examination of the respondent's managing director was not completed. She was to be re-examined by the respondent's counsel when the trial resumed (at [28]). The present case is distinguishable. Documents 1 and 3 are notifications of hearings that were scheduled, while Document 2 is a civil judgment stating the findings of the Shijingshan District People's Court of Beijing Municipality in the Third-Party Proceedings. In my view, the Wife's Documents do not pertain to incomplete trial evidence and cannot be considered "partial evidence" akin to the further evidence sought to be adduced in *JTC v Wishing Star*.

15 I am similarly unpersuaded by the Husband's objection to the admission of the Wife's Documents on the basis that the dispute over community property is not the same as divorce proceedings. Even taking the Husband's case at its highest, the evidence is still relevant and is at least potentially material because it would shed some light on the degree of overlap between the Singapore proceedings and the Chinese proceedings. Accordingly, I allow the Wife's application in SUM 58.

### ***SUM 70***

16 In SUM 70, the Husband seeks to admit four documents (collectively, the "Husband's Documents"):

- (a) Copies of the Husband's counsel's email and letter dated 4 January 2025, with DBS bank statements of the parties' joint bank account for the months of October 2022 and January 2023 (showing the transfer out of a sum of \$1,740,000) annexed ("Document A").<sup>39</sup>

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<sup>39</sup> Husband's Affidavit dated 10 March 2025 at pp 14–24.

(b) Copies of email correspondence dated 6 January 2025 between the Husband’s counsel and the Wife’s counsel concerning the Husband’s claim for \$1,740,000 (“Document B”).<sup>40</sup>

(c) A police report dated 10 January 2025 on the Wife’s alleged misappropriation of \$1,740,000 (“Document C”).<sup>41</sup>

(d) A cable transfer dated 8 January 2025 (showing a transfer of \$1,250,000 from the Wife’s personal DBS bank account to her China Merchants Bank account in China) (“Document D”).<sup>42</sup>

17 The Husband also applied under SUM 70 filed in this Registrar’s Appeal for the court to order the Wife to return the sum of \$1,740,000 to the parties’ DBS joint account (“Prayer 3”),<sup>43</sup> although that was not in issue before the DJ, or in any way related to the decision that is on appeal.

### *Parties’ arguments*

18 The Husband argues that the Wife failed to provide compelling evidence to justify her actions of transferring the sum of \$1,250,000 out of Singapore, which undermines the principle of fair and equitable division of matrimonial assets.<sup>44</sup> The Husband contends that the Wife’s actions could amount to a contempt of court, and adverse inferences should be drawn against the Wife.<sup>45</sup> He further contends that the evidence of the Wife’s transfer of moneys out of

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<sup>40</sup> Husband’s Affidavit dated 10 March 2025 at pp 26–29.

<sup>41</sup> Husband’s Affidavit dated 10 March 2025 at pp 31–36.

<sup>42</sup> Husband’s Affidavit dated 10 March 2025 at p 38.

<sup>43</sup> Prayer 3 in SUM 70.

<sup>44</sup> HWS at para I(B)(4).

<sup>45</sup> HWS at para I(B)(6).

the parties' joint bank account on 23 January 2023, together with the Wife's transfer of moneys out to her China Merchants Bank account on 8 January 2025, collectively satisfy the test in *Yeo Chong Lin* of "perceptible impact on the decision such that it is in the interest of justice that it should be admitted".<sup>46</sup> The Husband also argues that these two transfers satisfy the condition of "special grounds" for adducing fresh evidence (*UJN v UJO* [2021] SGCA 18 ("*UJN v UJO*") at [4]), the test for which are the three requirements laid out in *Ladd v Marshall* [1954] 1 WLR 1489 ("*Ladd v Marshall*").<sup>47</sup>

19 On the other hand, the Wife argues that the first and second requirements laid out in *Ladd v Marshall* are not met. On the first requirement, she argues that by the Husband's own admission, he discovered what he is now alleging to be a wrongful misappropriation of assets on 23 January 2023. On the second requirement, she argues that the Husband's affidavit in relation to the joint account moneys is not relevant to the present appeal, which is an appeal against the dismissal of an application for a stay of proceedings.<sup>48</sup>

### *Analysis and decision*

20 As a preliminary point, at the hearing before me, the Husband's counsel sought leave to withdraw Prayer 3, which I granted. I note from the Husband's affidavit that his application to adduce fresh evidence appears to be for the purposes of Prayer 3, which has since been withdrawn. In any case, even if the Husband's Documents were not for the purposes of Prayer 3, I fail to see how the applicable test for admissibility has been satisfied.

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<sup>46</sup> HWS at para II(B)(3).

<sup>47</sup> HWS at para II(B)(4).

<sup>48</sup> WWS at paras 9–10.

21 The Husband's Documents fall into two separate categories. First, the DBS bank statements of the parties' joint bank account for the months of October 2022 and January 2023 (the "DBS Bank Statements") constitute evidence relating to matters which occurred *before* the date of the decision from which the appeal was brought. The fact that these bank statements were annexed to an email sent by the Husband's counsel on 4 January 2025 does not change the fact that these documents could have been produced to the DJ at the hearing below.

22 The law on the admission of fresh evidence relating to matters which occurred *before* the date of the decision from which the appeal was brought is governed by s 22(4) of the SCJA 2020 and r 831(1) of the FJR 2014 (also Part 19, Rule 9(6) of FJR 2024), which require "special grounds" to be established. Such evidence may only be adduced on "special grounds". The test for the requirement of "special grounds" is set out in *Ladd v Marshall* ("*Ladd v Marshall* test"), which has been applied in Singapore (*Anan Group (Singapore) Pte Ltd v VTB Bank (Public Joint Stock Co)* [2019] 2 SLR 341 ("*Anan Group*") at [21], and *UJN v UJO* at [4]):

- (a) First, the evidence could not have been obtained with reasonable diligence for use at the hearing below.
- (b) Second, the evidence, if given, would probably have an important influence on the result of the case, though it may not be decisive.
- (c) Third, the evidence must be such as is presumably to be believed, or in other words, it must be apparently credible, though it need not be incontrovertible.

23 In cases where the hearing is not upon the merits, such as in the case of interlocutory appeals, *Ladd v Marshall* serves as a guideline which the court is entitled but not obliged to refer to in the exercise of its unfettered discretion (*Anan Group* at [35]).

24 Second, the remainder of the Husband's Documents are dated in 2025, and constitute evidence relating to matters which occurred *after* the date of the decision from which the appeal was brought. The admissibility of these documents is governed by the test set out above at [11].

25 Applying the relevant principles set out at [22] and [23] above, I am not satisfied that the DBS Bank Statements should be admitted into evidence. The substantial sum of the transfer of \$1,740,000, and the fact that the Husband was a joint owner of the parties' joint bank account, suggest that he would have known about the transfer of the moneys, or at the very least, could have obtained this evidence with reasonable diligence for use at the hearing below. Putting that aside, the Husband was not able to explain why the evidence, if admitted, would probably have an important influence on the result of the Wife's application and appeal. The present appeal relates to an application for a stay of proceedings. The Husband did not clarify how the DBS Bank Statements will affect the court's decision as to which is a more appropriate forum for the divorce hearing to take place.

26 As for the remainder of the Husband's Documents dated in 2025, the Husband's case is similarly unclear as to how the fresh evidence would be relevant. The Husband makes broad assertions that these documents would have a perceptible impact on the decision and that it was in the interests of justice that the documents should be admitted. However, when pressed at the hearing as to how these documents relate to the issue of *forum non conveniens*, the



Husband’s counsel was unable to explain how the new evidence was at least potentially material to the issues on appeal. Accordingly, leaving aside Prayer 3 (which was withdrawn), I dismiss SUM 70.

## **RAS 23**

### ***Parties’ arguments***

27 On appeal, the Wife raises four main arguments. First, she submits that the parties are more closely connected with China notwithstanding the Husband’s Singapore citizenship and the Wife’s Singapore PR status.<sup>49</sup> She relies on the case of *BDA v BDB* [2013] 1 SLR 607 (“*BDA v BDB*”) at [29] and contends that nationality should not be the determinative factor. Instead, the focus should be on the domicile or habitual residence of the parties.<sup>50</sup> In this regard, she contends that the Husband has resided in China since April 2019, save for a 10-day sojourn to Singapore in March 2023. The Wife, while maintaining Singapore PR status, remains a Chinese citizen and has been living in China since April 2023.<sup>51</sup> She argues that she resided in Singapore merely to fulfil her obligation as the caregiver for the Children,<sup>52</sup> and that the family had intended to return to China. To support her argument that the family intended to return to China, she refers to a text message from the Husband dated 13 July 2023, two months before his divorce filing, wherein he acknowledged that the Children’s eventual return to China is necessary.<sup>53</sup> The Wife contends that the DJ placed disproportionate emphasis on the Children’s lifelong residence and

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<sup>49</sup> AWS at para 20.

<sup>50</sup> AWS at para 26.

<sup>51</sup> AWS at paras 29 and 30.

<sup>52</sup> AWS at para 30.

<sup>53</sup> AWS at para 27; ROA Vol 3 at pp 74 and 88.

education in Singapore, when greater weight should be accorded to the Husband's admission regarding their planned relocation to China.<sup>54</sup> Furthermore, she contends that the timing of the Children's Chinese citizenship renunciation, which supposedly took place in January 2024,<sup>55</sup> and which followed closely after her filing of SUM 3536/2023 in November 2023 to stay the Singapore proceedings, suggests a strategic manoeuvre by the Husband to strengthen the case for Singapore as the appropriate forum.<sup>56</sup>

28 The Husband disputes these contentions. The Husband had initially asserted that the Children had renounced their Chinese citizenship, but that assertion was subsequently withdrawn at the hearing before the DJ on 18 June 2024.<sup>57</sup> The Husband also clarified on appeal that he had inadvertently provided the DJ with erroneous information in his affidavit dated 26 April 2024,<sup>58</sup> and that the Children had actually obtained Singapore Citizenship on 30 April 2014, and not in January 2024 after the renunciation of their Chinese citizenship as the DJ had stated in his judgment.<sup>59</sup> The Husband denied that the plan was for the family to return to China. He explains that his text message was only part of the divorce settlement negotiations and is not an agreement for the Children to return to China.<sup>60</sup>

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<sup>54</sup> AWS at para 31.

<sup>55</sup> ROA Vol 3 at p 153: Husband's Supplemental Affidavit filed on 26 April 2024 at para 5(3).

<sup>56</sup> AWS at para 31.

<sup>57</sup> ROA Vol 1 at pp 41–42.

<sup>58</sup> ROA Vol 3 at pp 152–156.

<sup>59</sup> Respondent's Written Submission dated 3 February 2025 ("RWS") at paras 11–12 and 25; ROA Vol 3 at pp 316–317: Husband's Further Supplemental Affidavit filed on 21 May 2024.

<sup>60</sup> RWS at paras 5–10 and 28.

29 The second point that the Wife raises on appeal is that the evidence relating to disputed facts is more readily available in China. She submits that the breakdown of the marriage occurred in China, where the Husband's alleged adultery with the Third Party took place.<sup>61</sup> The Wife also argues that the majority of the parties' assets are in China. She avers that the Husband has bank accounts, stocks, investments, shares and/or bonds, in addition to his two companies in China.<sup>62</sup> The Wife relies on the case of *Eng Liat Kiang v Eng Bak Hern* [1995] 2 SLR(R) 851 ("*Eng Liat Kiang*") for the proposition that weight should be attached to the location of the subject matter in dispute.<sup>63</sup> Further, she alleges that the Husband has dissipated matrimonial assets through the Third Party and kept the assets out of her reach.<sup>64</sup> Any discovery of, and dispute with regard to, these assets would therefore be better determined in China.<sup>65</sup>

30 The Husband counters that he commenced the divorce proceedings based on the Wife's unreasonable behaviour, including her alleged adultery and improper associations with other men.<sup>66</sup> The Husband denies the Wife's allegations of adultery.<sup>67</sup> The Husband further contends that the parties' joint assets are in Singapore, and draws the court's attention to the parties' matrimonial flat and joint bank account.<sup>68</sup>

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<sup>61</sup> AWS at paras 33–35.

<sup>62</sup> AWS at para 36.

<sup>63</sup> AWS at para 38.

<sup>64</sup> AWS at para 37.

<sup>65</sup> AWS at para 42.

<sup>66</sup> RWS at para 29.

<sup>67</sup> RWS at paras 30–31.

<sup>68</sup> RWS at para 32.

31 The third point that the Wife raises on appeal is that the Husband is engaging in forum shopping to avoid the application of the Civil Code of the People's Republic of China, which would entitle her to compensation if the cause of the divorce is found to be the Husband's co-habitation with the Third Party. The Wife also argues that the Husband wishes to continue divorce proceedings in Singapore to avoid divulging the true extent of his assets in China.<sup>69</sup>

32 In response, the Husband once again denies the co-habitation allegations. He submits that the same arguments on forum shopping were raised at the hearing below and reiterates that he has affirmed on affidavit that he would provide disclosure of the necessary details during the ancillary matters stage of the Singapore proceedings, and that the Wife would be at liberty to pursue interrogatories and discovery as necessary at the appropriate juncture.<sup>70</sup>

33 Finally, the Wife urges the court to consider the comparative progress of the proceedings in Singapore and China, the extent of overlapping issues and parties in the Singapore and Chinese proceedings, and the potential risk of conflicting judgments.<sup>71</sup> She relies on Article 25 of the Chinese Law on the Application of Law to Foreign-Related Civil Relations, which appears on its face to be a provision for determining the governing law for the personal and property relations between parents and children, to contend that the Chinese courts have jurisdiction to make orders regarding the Children, even assuming that the Children are no longer Chinese citizens.<sup>72</sup>

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<sup>69</sup> AWS at paras 47–51.

<sup>70</sup> RWS at para 34.

<sup>71</sup> AWS at para 55.

<sup>72</sup> AWS at para 56.

34 In response, the Husband contends that the Chinese courts lack jurisdiction. As for the Wife’s reliance on Article 25 of the Chinese Law on the Application of Law to Foreign-Related Civil Relations, he submits that this provision does not advance her position, as it establishes common habitual residence as the determining factor, and both he and the Children have their common habitual residence in Singapore, where the parties have been living since 2002.<sup>73</sup>

### ***Applicable law***

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]).

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<sup>73</sup> RWS at para 35.

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]).

### ***Analysis and decision***

#### ***Personal connection***

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.

In relation to the parties’ living arrangements, the DJ found that the Husband went to China in 2019 for work opportunities, which coincided with the time the Husband said the parties had started to live separately.<sup>74</sup> This finding was not contested on appeal. The Wife only moved to China in 2023, to attempt reconciliation with the Husband at the encouragement of her in-laws.<sup>75</sup> These recent developments, which appear to correlate to some extent to the breakdown of the parties’ relationship, must be viewed against the backdrop that the family has been based in Singapore for almost two decades. In my view, the changes in the parties’ living arrangements in recent years do not diminish their substantial connections to Singapore. I find the parties’ personal connection to Singapore to be a factor that points to Singapore as the more appropriate forum.

39 I turn next to the Children’s personal connection to the competing forums. While it is undisputed that they are Singapore citizens, there was some confusion regarding their Chinese citizenship status. The Husband has since confirmed that contrary to his initial assertion, the Children did not renounce their Chinese citizenship (see [28] above). Although the DJ had proceeded on the basis that the Children had renounced their Chinese citizenship in January 2024,<sup>76</sup> I note that he did not place much emphasis on the citizenship of the Children.<sup>77</sup> On this point, I find the Wife’s reliance on *BDA v BDB* to be apposite: nationality alone should not determine forum choice; rather, greater focus should be placed on domicile or habitual residence.<sup>78</sup> Following this approach, I consider that while the Children’s dual Singapore-Chinese

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<sup>74</sup> GD at [37].

<sup>75</sup> AWS at para 33.

<sup>76</sup> GD at [41].

<sup>77</sup> GD at [42].

<sup>78</sup> AWS at para 26.

citizenship is a neutral factor, their habitual residence in Singapore weighs significantly in the analysis.

40 The Children’s connection to Singapore runs deep, shaped by their lifelong residence and education here. C1 has now progressed to secondary school at what appears to be the parties’ education institution of choice for C1,<sup>79</sup> while C2 is continuing her primary school studies. Having spent their entire lives here, the Children have integrated into Singapore society and developed ties here. The Wife’s reliance on a single text message from the Husband on 13 July 2023 to argue that the parties “did not intend for Singapore to be the country in which they will settle down”,<sup>80</sup> and that they intended to relocate the Children to China, cannot bear the weight she places upon it to support her case. This message must be considered in its proper context. As noted by the DJ, no concrete steps were ever taken to initiate such a move, and no definite plans existed.<sup>81</sup> In fact, it was just a few months earlier, on 19 March 2023, that the Husband messaged the wife to say that: “[C1] continues to study in Singapore to see if he can be admitted to [a specified education institution] before making a decision”.<sup>82</sup> C1 did eventually make it to that education institution after finishing his PSLE examinations.<sup>83</sup> The Wife complains that the DJ had failed to place sufficient emphasis on her submission that the family’s presence in Singapore was motivated by the parties’ intention to educate the Children in Singapore, and in that regard, the parties did not intend to settle down in

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<sup>79</sup> ROA Vol 3 at p 87.

<sup>80</sup> AWS at para 27.

<sup>81</sup> GD at [44].

<sup>82</sup> ROA Vol 3 at p 87.

<sup>83</sup> ROA Vol 3 at p 154.



Singapore but had agreed to move back to China eventually.<sup>84</sup> Against the backdrop that the family has been based in Singapore for around two decades, I am unable to accept, based on the text message that the Wife relies on, that the parties had intended or agreed to relocate the whole family and settle down in China. Further, I agree with the DJ that the Wife's argument that the family's presence in Singapore is education-motivated in fact strengthens the Husband's case that Singapore is the more appropriate forum, particularly as both Children, at 14 and 11, are years away from completing their education here.<sup>85</sup> Moreover, if there was an intention to relocate to China, there would, surely, be more evidence, such as detailed planning for the move, including searches on schools in China. I agree with the DJ's observation that the fact that no such evidence was produced only strengthens the inference that there was no clear intention to relocate the entire family back to China.<sup>86</sup>

41 At the DJ's directions, expert evidence on Chinese law was tendered on the issue of whether the Chinese courts have jurisdiction over the Children, who have consistently resided in Singapore and hold Singapore citizenship. Notwithstanding his retraction of his assertion of the Children's renunciation of their Chinese citizenship, the Husband continues to maintain his position that the Chinese courts lack jurisdiction over the Children.

42 The following principles relating to proof of foreign law and the use of expert evidence are relevant:

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<sup>84</sup> AWS at paras 24–26.

<sup>85</sup> GD at [47].

<sup>86</sup> GD at [44].

- (a) the content of foreign law is a question of fact which must be proved (*Malayan Banking Bhd v Bakri Navigation Co Ltd and another* [2020] 2 SLR 167 at [59]);
- (b) the party asserting foreign law bears the burden of proving it as an issue of fact (*Kuvera Resources Pte Ltd v JP Morgan Chase Bank, NA* [2022] SGHC 213 at [144(b)], referring to *Star Cruise Services Ltd v Overseas Union Bank Ltd* [1999] 2 SLR(R) 183 at [77]);
- (c) the expert cannot merely present his conclusion on what the foreign law is without also presenting the underlying evidence and the analytical process by which he reached his conclusion (*Pacific Recreation Pte Ltd v S Y Technology Inc and another appeal* [2008] 2 SLR(R) 491 (“*Pacific Recreation*”) at [85]);
- (d) the expert’s duty is to the court, and he should neither attempt nor be seen to advocate for his client. Any such advocacy is limited to supporting his independent opinion and not to advancing his client’s cause (*Pacific Recreation* at [69] and [70], referring to *The H156* [1999] 2 SLR(R) 419 at [27] and *Vita Health Laboratories Pte Ltd and others v Pang Seng Meng* [2004] 4 SLR(R) 162 at [82]–[83]);
- (e) it is within the court’s powers to choose between conflicting expert testimony and determine which, if any, to adopt having regard to what best accords with logic and common sense (*Lim Chong Poon v Chiang Sing Jeong* [2020] SGCA 27 at [5]).

43 As observed by the DJ, the experts took diametrically opposing positions, arriving at conclusions that were not well supported.<sup>87</sup> In relation to the Wife’s expert evidence, I share the reservations of the DJ.<sup>88</sup> The Wife’s expert evidence did not provide sufficient reasoning for the conclusion that the Chinese courts have jurisdiction to make orders in relation to the Children. The two different legal provisions cited in support of the conclusion appear to govern choice of law issues and affect the law which the Chinese courts will apply when determining “personal and property relations between parents and children” and “maintenance”.<sup>89</sup> They do not directly address the issue of jurisdiction. The Wife’s expert also annexed, as part of the expert evidence, several case authorities in support of a statement that the Chinese courts would “handle the custody issues according to law”.<sup>90</sup> However, it does not appear that the issue of jurisdiction was directly addressed or discussed in these case authorities either. The expert evidence is, with respect, of little assistance as it neither explains how these annexed judgments established or affirmed a principle relevant to the issue in question nor makes explicit what “law” it was that the courts applied that supports the conclusion reached by the expert. The expert opinion invites the court to draw inferences to fill in the gaps in order to arrive at the proposed conclusion while providing no clear legal basis for doing so. The expert evidence also did not deal with the relevance and potential impact of the factors distinguishing those cases from the present one, such as the children’s habitual residence.<sup>91</sup> In addition, the Wife’s expert appears to be advocating for the Wife’s position, listing reasons why the Husband’s case

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<sup>87</sup> GD at [19]–[21] and [50]–[53].

<sup>88</sup> GD at [23] and [51]–[53].

<sup>89</sup> ROA Vol 3 at p 237.

<sup>90</sup> ROA Vol 3 at 237, 240–246; also similar statement 440 and 442–463

<sup>91</sup> ROA Vol 3 at pp 237 and 440. See eg, ROA Vol 3 at pp 237 and 451.

should be dismissed by the Singapore courts, as opposed to providing a neutral opinion to assist the court.<sup>92</sup>

44 In relation to the Husband’s expert evidence, I also agree with the DJ’s observation that the conclusion reached by the Husband’s expert is not properly supported. The Husband’s expert cites Articles 1, 8 and 27 of the “Law of the People’s Republic of China on the Application of Laws in Foreign Related Civil Relations” for his conclusion that the Chinese courts have no right to make a judgment on the custody of the children.<sup>93</sup> However, it is unclear how the articles cited by the Husband’s expert are applicable and relevant, and how these provisions led the expert to the conclusion that the Chinese courts have no jurisdiction over the Children.<sup>94</sup> The Husband’s expert also annexed excerpts of additional articles of the “Law of the People’s Republic of China on the Application of Laws in Foreign Related Civil Relations”,<sup>95</sup> without any explanation of how these additional articles were relevant.<sup>96</sup> Similar to my conclusion above in relation to the case authorities annexed by the Wife’s expert (above at [43]), I find that the Husband’s expert had not adequately explained the relevance of these articles. Additionally, I note that the Husband’s expert described the Children as having a “foreign nationality” and did not state that they are also Chinese citizens.<sup>97</sup> As explained earlier at [39], the Husband had initially asserted that the Children had renounced their Chinese citizenship, but that assertion was subsequently withdrawn. It is not only unclear how the

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<sup>92</sup> See *eg*, ROA Vol 3 at pp 82–85.

<sup>93</sup> ROA Vol 3 at pp 181–182, 327–329.

<sup>94</sup> GD at [21].

<sup>95</sup> ROA Vol 3 at pp 338–340.

<sup>96</sup> ROV Vol 3 at p 328.

<sup>97</sup> ROA Vol 3 at p 181.

nationality of the Children affects the jurisdiction of the Chinese courts, but it is also uncertain whether the Husband's expert had proceeded on a correct premise regarding the Children's nationalities. I have similar concerns with the objectivity and impartiality of the Husband's expert evidence, noting, in particular, that the Husband's Chinese lawyer has expressly acknowledged that he should not call himself an "independent expert witness".<sup>98</sup>

45 The testimony from the experts offers limited value in illuminating the issue under consideration and raises issues of reliability. The experts had maintained their opposing opinions without offering reasoned and balanced analysis, and came to conclusions that were not adequately substantiated. Nevertheless, as I will explain below, even if I were to proceed on the assumption that the position presented by the Wife's expert is the correct one and accept the interpretation of Chinese law as presented by the Wife's expert, I would still find in favour of the Husband and not grant the stay application.

46 Assuming *arguendo* that the Chinese courts have jurisdiction and would assume jurisdiction over the Children, I remain unpersuaded that China is clearly or distinctly the more appropriate forum to determine the ancillary matters relating to them. In proceedings relating to a child, the paramount consideration is the welfare of the child. As observed in *TDX v TDY* [2015] 4 SLR 982 ("*TDX v TDY*") at [15], the application of the welfare principle, to a case such as the present case, requires the court to examine which jurisdiction is better placed to decide the issues concerning the welfare of the child. As held in *Re A (an infant)* [2002] 1 SLR(R) 570 at [16], which was discussed in *TDX v TDY* at [15]–[17], when applying the doctrine of *forum non conveniens* to the context of child custody, care and control, the child's welfare is best determined

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<sup>98</sup> ROA Vol 3 at pp 91–96.

by the forum which is best equipped to determine what is best for the child in all material aspects – ranging from healthcare and education to moral, spiritual and other relevant needs. Crucially, this requires a forum with an intimate understanding and familiarity with the cultural and societal framework relevant to how the child is to be raised, which in this case is Singapore, which the Children have always known as home. In his divorce application, the Husband seeks determination of the Children’s custody, care and control, and access, as well as their maintenance.<sup>99</sup> In so far as ancillary matters involving the Children are concerned, given that Singapore is the only home they have known and where their lives are firmly anchored, Singapore stands as the distinctly more appropriate forum to determine matters fundamental to the Children’s welfare and best interests.

47 I further note that the Wife did not substantiate a meaningful connection between the Children and China, and merely claimed that she has “instilled the Chinese culture in [the family’s daily lives]” and the Children “have significant cultural affinities with China”.<sup>100</sup> In my view, this general claim of cultural affinity cannot displace the Children’s direct and established ties to Singapore, which tilt the scale significantly in favour of Singapore as the appropriate forum.

*Location and compellability of witnesses*

48 The Wife argues that evidence is more readily available in China because the Husband’s alleged adultery occurred in China, and that the Husband and the Third Party will not be willing to attend the proceedings in Singapore.<sup>101</sup>

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<sup>99</sup> ROA Vol 2 at pp 11–12: Statement of Claim for Divorce filed on 21 September 2023 at paras 7(b), 7(c) and 7(g).

<sup>100</sup> ROA Vol 3 at p 11: Wife’s Affidavit filed on 17 November at para 18.

<sup>101</sup> Minutes of Hearing on 10 April 2025.

I am not persuaded by the Wife's argument. Having commenced divorce proceedings in Singapore and resisting the Wife's attempt to stay these proceedings, I find it more likely than not that the Husband would participate in the litigation in Singapore. Counsel for the Wife rightly conceded at the hearing of the appeal that should the Husband fail to turn up at any of the Singapore court hearings, it would only be to his detriment.<sup>102</sup>

49 Further, even if the Third Party chooses not to attend proceedings in Singapore, I find that this alone is not determinative. The alleged affair between the Husband and the Third Party that the Wife intends to refer to was dealt with in the Third-Party judgment, which has been admitted into evidence, and the Wife's counsel has acknowledged that the Wife may refer to the Third-Party judgment in the Singapore proceedings to show the cause of the breakdown of the marriage.<sup>103</sup>

50 Conversely, in the Husband's claim for divorce, he alleges that it was the Wife who committed adultery or otherwise had improper and inappropriate associations. These allegations, as detailed in the Statement of Particulars, concern incidents which purportedly occurred in July 2012,<sup>104</sup> while the parties were in Singapore. As the DJ rightly observed, if contested, the witnesses and evidence required to prove the Husband's allegations would more likely be in Singapore.<sup>105</sup> I am therefore of the view that the location and compellability of witnesses is a neutral factor in this case.

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<sup>102</sup> Minutes of Hearing on 10 April 2025.

<sup>103</sup> Minutes of Hearing on 10 April 2025.

<sup>104</sup> ROA Vol 2 at p 14: Husband's Statement of Particulars dated 18 September 2023 at para 2(5).

<sup>105</sup> GD at [56].

*Location of assets and ease of obtaining evidence in relation to the assets*

51 The Wife contends that apart from the matrimonial flat in Singapore, the majority of the parties' assets are held by the Husband in China, comprising bank accounts, stocks, investments, shares, bonds, and two companies.<sup>106</sup> However, beyond the Husband's admission regarding the two companies in China, there is no evidence substantiating the existence of these other alleged assets in China. No evidence has been adduced regarding the valuation of the two companies either, and the Wife's claim that they are worth approximately S\$300 million to S\$400 million<sup>107</sup> is completely unsubstantiated and is no more than a bare assertion. At the appeal hearing, the Wife's counsel confirmed that there is no evidence to support the Wife's valuation of the companies located in China.<sup>108</sup>

52 The fact that certain assets may be located in China does not affect their character as matrimonial assets, if acquired during the marriage. The location of assets overseas generally presents no impediment to their inclusion in the pool of matrimonial assets for division – Singapore courts regularly deal with matrimonial assets situated in foreign jurisdictions. The DJ is correct in pointing out that if the Wife takes the view that the Husband has assets in China, it is open to her to pursue discovery and interrogatories at the appropriate stage of the Singapore proceedings.<sup>109</sup> I add that the Husband's assets in Singapore are available to secure compliance with discovery obligations, as well as any orders for disclosure, in that the Singapore courts can draw the necessary adverse

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<sup>106</sup> AWS at paras 36–37.

<sup>107</sup> ROA Vol 3 at p 9: Wife's Affidavit filed on 17 November 2023 at para 12.

<sup>108</sup> Minutes of Hearing on 10 April 2025.

<sup>109</sup> GD at [62].



inferences against him in dividing the pool of matrimonial assets should he fail to make full and frank disclosure. Nothing in the Wife's submissions suggests any exceptional circumstances that would impede the Singapore courts' ability to deal with overseas assets in these divorce proceedings.

53 As for the Wife's allegation that the Husband has dissipated matrimonial assets through the Third Party,<sup>110</sup> her counsel submitted that assets valued at RMB 452,119.50 or about S\$77,557 were uncovered after an investigation by the authorities in China and documented in the judgment for the Third-Party Proceedings.<sup>111</sup> The Wife's counsel confirmed that other than that, no further evidence is available regarding the Husband's assets in China or the alleged dissipation of such assets.<sup>112</sup> Given the limited evidence before this court – which establishes only the matrimonial flat and joint account in Singapore, and two companies of unproven value in China – I find that the location of assets to be a neutral factor, neither favouring nor disfavouring either jurisdiction as the appropriate forum.

#### *Proceedings in China*

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 *Virsagi Management (S) Pte Ltd v Welltech Construction Pte Ltd and another appeal* [2013] 4 SLR 1097 (“*Virsagi*”) 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]).

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<sup>110</sup> AWS at para 37.

<sup>111</sup> Minutes of Hearing on 10 April 2025.

<sup>112</sup> Minutes of Hearing on 10 April 2025

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 (*Virsagi* 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).

55 The various actions in China involving the parties and the Third Party can be categorised into four distinct matters. First, there was an investigation order by the Dalian Court dated 21 November 2023 concerning an altercation between the Third Party and the Wife.<sup>113</sup> This matter involved only the Wife and the Third Party. There is no expert evidence on Chinese law to suggest it constituted divorce proceedings.<sup>114</sup>

56 Second, there was a “divorce dispute” (also described as a “marriage dispute” in other documents)<sup>115</sup> before the Dalian Court. The Husband had, on 26 December 2023, filed an objection to the Dalian Court’s jurisdiction, citing the existing Singapore proceedings.<sup>116</sup> The Wife subsequently withdrew her case. This withdrawal was also recorded in the judgment delivered by the Shijingshan District People’s Court of Beijing Municipality on 24 December 2024 for the Third-Party proceedings.<sup>117</sup> The reason for the withdrawal remains disputed before this court, with nothing in evidence to illuminate the matter. For completeness, I note that this “divorce dispute” (or “marriage dispute”) in the Dalian Court may be related to the investigation order mentioned above at [55]

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<sup>113</sup> ROA Vol 3 at p 86.

<sup>114</sup> ROA Vol 3 at p 86.

<sup>115</sup> ROA Vol 3 at p 86; ROA Vol 3 at p 332.

<sup>116</sup> ROA Vol 3 at p 114.

<sup>117</sup> Affidavit of [Translator X] dated 3 March 2025 at p 30.

that was issued by the same court. In any case, regardless of the reason for its withdrawal and whether it had any connection with the investigation order, that “divorce dispute” (or “marriage dispute”) is no longer pending in the Dalian Court, and consequently does not constitute parallel proceedings.

57 Third, there were the Third-Party Proceedings, which appear to originate from an indictment filed by the Wife against the Third Party on 22 January 2024 in the Beijing Shijingshan District People’s Court.<sup>118</sup> The DJ found that the Third-Party Proceedings “had some relation to the parties” and “involved the matrimonial assets of the parties”,<sup>119</sup> and concluded that the existence of these proceedings weighed in favour of the Wife’s application for a stay of the Singapore proceedings. As mentioned earlier, these proceedings concerned a “dispute over [a] gift contract”.<sup>120</sup> Based on the evidence admitted under the Wife’s application in SUM 70, the Third-Party Proceedings had already concluded with a judgment issued on 24 December 2024, before the hearing of this appeal on 10 April 2025. In that judgment, the court found, *inter alia*, that the Husband had cohabited with the Third Party, and ordered the Third Party to return the parties’ joint properties in the sum of RMB 452,119.50 (or about S\$77,557) to the Wife.<sup>121</sup> That judgment is under appeal.<sup>122</sup>

58 Fourth, there are the proceedings evinced by fresh evidence pertaining to the hearing notification in Document 1 relating to the Community Property Proceedings, which the Wife is relying on as evidence of “ongoing divorce

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<sup>118</sup> ROA Vol 3 at pp 395–396.

<sup>119</sup> GD at [73]–[74].

<sup>120</sup> Affidavit of [Translator X] dated 3 March 2025 at pp 26, 28 and 38.

<sup>121</sup> Affidavit of [Translator X] dated 3 March 2025 at p 36.

<sup>122</sup> Affidavit of [Translator X] dated 3 March 2025 at p 38.

proceedings”,<sup>123</sup> in order to rebut the DJ’s finding that there “did not appear to be the commencement of divorce proceedings between the parties” in China.<sup>124</sup> Indeed, the DJ had found, with respect to the Chinese proceedings placed before him for consideration, specifically the proceedings before the Dalian Court, that what the Wife referred to as “divorce proceedings” appeared instead to be a mere “investigation order dated 21 November 2023” (see [4] above).<sup>125</sup>

59 In my judgment, the existence of the pending appeal against the Third-Party proceedings and the Community Property Proceedings in China, while relevant factors supporting a stay of the Singapore proceedings, do not carry sufficient weight to warrant such a stay. I explain.

60 Regarding the pending appeal against the judgment of the Beijing Shijingshan District People’s Court in the Third-Party Proceedings, the parties may refer the Singapore courts to evidence relating to the Third-Party Proceedings and the eventual outcome of the appeal in the determination of the pool of matrimonial assets. Should the appeal in the Third-Party Proceedings fail, the sum ordered to be repaid by the Third Party may be presented for consideration as part of the pool of matrimonial assets. Conversely, if the appeal succeeds, the issue becomes moot. This approach to the Third-Party Proceedings and the related appeal, which are confined to the issue of dissipation of matrimonial assets through gifts and other transfers from the Husband to the Third-Party, minimises concerns with the duplication of resources while ensuring that any potentially relevant findings of the Chinese

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<sup>123</sup> WWS at para 17; Wife’s Affidavit dated 28 February 2025 at pp 6–7; Affidavit of [Translator X] dated 3 March 2025 at pp 26–27.

<sup>124</sup> GD at [66].

<sup>125</sup> GD at [66].

courts can be brought before the Singapore courts for consideration in resolving the parties' financial matters.

61 As for the Community Property Proceedings, I am not persuaded that they justify a stay of the Singapore proceedings. First, the evidence is unclear as to when the Community Property Proceedings were commenced or filed by the Wife in the Beijing Xicheng Primary People's Court. Beyond a hearing date fixed on 28 March 2025, no other evidence has been provided in relation to these proceedings. The Wife's counsel indicated that these proceedings could only proceed after the Third-Party proceedings were concluded.<sup>126</sup> Based on the submissions of the Wife's counsel, the necessary inference is that the Community Property Proceedings followed the Third-Party Proceedings. Indeed, no evidence was produced to show that the Community Property Proceedings were initiated before the Third-Party Proceedings or earlier. If the Community Property Proceedings were initiated after the judgment for the Third-Party proceedings was rendered on 24 December 2024, the Community Property Proceedings carry little weight, as the Wife cannot bolster her claim of parallel proceedings by taking out fresh proceedings in China after the hearing before the DJ, and then rely on these to justify a stay of the Singapore proceedings.

62 Second, putting aside the timing of the Community Property Proceedings, it is unclear whether such proceedings are in fact "ongoing divorce proceedings" as the Wife claims, or in any way related to the withdrawn "divorce dispute" or "marriage dispute" in the Dalian Court. The hearing notification in Document 1 explicitly describes the 28 March 2025 hearing as a

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<sup>126</sup> Minute Sheet of hearing on 10 April 2025.

“dispute over community property division”,<sup>127</sup> suggesting that these proceedings are confined to spousal asset-related litigation. The description of these proceedings is conspicuously devoid of language typically associated with divorce proceedings – there was no reference to marriage dissolution nor divorce. In essence, the Wife’s characterisation of the Community Property Proceedings as “ongoing divorce proceedings” is unsupported by expert evidence on Chinese law.

63 Third, the overlap between the Singapore and Chinese proceedings remains unclear. While property division is mentioned, there is no similar mention of spousal or child maintenance, or arrangements for the Children after the divorce. While the Wife claims that the Community Property Proceedings “will address what is equivalent to the grounds for divorce and the ancillary matters”,<sup>128</sup> she has not substantiated this claim in any way. Despite this being her appeal, and despite filing SUM 58 specifically to adduce fresh evidence, she has produced only Document 1 – a hearing notification for the Community Property Proceedings. She has not tendered any evidence, such as cause papers or other documentation as well as expert evidence that would be necessary to throw light either on the true nature of those proceedings, or the extent of their overlap with the Singapore proceedings. The onus lies squarely on the Wife to adduce the relevant evidence to support her claim that the Community Property Proceedings “will address what is equivalent to the grounds for divorce and the ancillary matters” and thereby establish the overlap with the Singapore proceedings to advance her case based on the existence of parallel proceedings, but she has not discharged this burden. Based on the available evidence, I am

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<sup>127</sup> Wife’s Affidavit dated 28 February 2025 at p 6; Affidavit of [Translator X] dated 3 March 2025 at p 26.

<sup>128</sup> Wife’s Affidavit dated 28 February 2025 at paras 5–6.

left to conclude that the overlap between the Singapore and Community Property Proceedings could possibly be limited to the division of the parties' matrimonial assets. While the Community Property Proceedings may address property division, it is uncertain whether they would provide the comprehensive resolution of all matrimonial issues and resolve the entire matrimonial dispute as would the Singapore proceedings.

64 Fourth and finally, there is no evidence on the stage reached in the proceedings for the Community Property Dispute as at the 18 March 2025 hearing. Based on the submission of the Wife's counsel that the Community Property Proceedings could only proceed after the Third-Party Proceedings were concluded, I find that the Community Property Proceedings likely could not have been far advanced.

65 The Wife further argues that the Husband is forum shopping by commencing proceedings in Singapore. According to her, she will be entitled to compensation for damages caused by the Husband's cohabitation with the Third Party under Chinese Civil Code, and the Husband is seeking to avoid the application of Chinese law by litigating in Singapore.

66 I am unable to agree that the Husband is forum shopping by commencing proceedings in Singapore. The real and substantial connection of the parties' matrimonial disputes to Singapore makes Singapore an appropriate forum for the resolution of these disputes. The fact that the Wife may be entitled to compensation in China, which is not available under Singapore law, does not (whether by itself or together with other matters relied on by the Wife) show that Singapore is not the natural forum, or make China a more appropriate forum than Singapore. In fact, given the facts of the present case involving the dissolution of a marriage that is rooted in Singapore, and the arrangement of the

family's affairs after the divorce, if the Wife's attempt at staying these proceedings is mainly to avail herself of more favourable Chinese law provisions, that could, ironically, be in itself an indicator of forum shopping.

### **Conclusion**

67 The Wife has not discharged her burden of establishing that China is clearly or distinctly the more appropriate forum. While certain factors favour China, such as the parties' pre-marital connection to China and their current residence, these are outweighed by factors establishing real and substantial connection to Singapore and point to Singapore as the more appropriate forum for the divorce proceedings to take place. The parties lived a large part of their married life in Singapore. It has been the centre of their matrimonial life, where they have anchored their family and raised the Children. It is the dissolution of this Singapore-centred marriage and the related ancillary disputes that they now seek to resolve. I also accord significant weight to the fact that the Children have known Singapore as their home since birth, and Singapore is where they continue to reside and pursue their education. The Singapore courts are therefore particularly well-positioned to address the ancillary matters of the divorce concerning the Children, and comprehensively resolve the entirety of the parties' matrimonial dispute. It is therefore my judgment that this dispute may be more appropriately resolved in Singapore, and that this forum would most fairly serve both the interests of the parties and the ends of justice.

68 For the above reasons, I dismiss RAS 23. The Wife is granted leave to file her Defence and Counterclaim within 14 days from the date of this judgment.



69 I will hear submissions on costs if not agreed.

Teh Hwee Hwee  
Judge of the High Court

Mundo Alyssa Galvan (Teoh & Co LLC) for the appellant;  
Lau See-Jin Jeffrey (Lau & Company) for the respondent.

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