IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGHCF 36

District Court Appeal No 91 of 2024

Between

VBL

… *Appellant*

And

VBM

… *Respondent*

JUDGMENT

[Family Law — Consent orders — Variation]
[Family Law — Matrimonial assets — Division]
[Family Law — Maintenance — Child]

VBL
v
VBM

[2025] SGHCF 36

General Division of the High Court (Family Division) — District Court Appeal No 91 of 2024
Choo Han Teck J
20 May 2025

5 June 2025 Judgment reserved.

Choo Han Teck J:

1 The parties married in Singapore on 8 May 1999. The respondent husband, aged 57, is an Indonesian citizen. He has an employment pass in Singapore and works for a company in the business of manufacturing plastics products. The appellant wife, aged 54, is a Singapore citizen. She was a homemaker and founded a charitable organisation in 2004. They have two daughters, born in 2003 and 2006, respectively. The older daughter ("C1") is currently pursuing her undergraduate degree in the United Kingdom and the younger daughter ("C2") is set to commence her undergraduate studies this year, also in the United Kingdom. The appellant filed for divorce on 2 November 2009. Interim judgment ("IJ") was granted on 23 March 2010 and the divorce was finalised on 5 July 2010. They have agreed on all ancillary matters by consent in the IJ. At the time of the IJ, the children were aged seven and four, respectively.

2 Briefly, the IJ provided that the respondent pay S$5,779 to the appellant monthly for the children's daily expenses and extra-curricular activities, as well as S$945 monthly to the respective service providers for the children's school fees and health insurance. The respondent also agreed, in principle, to pay for the children's education including their tertiary education when the time came. This was to be determined at an appropriate time based on the financial abilities of the parties and academic abilities of the children. The respondent was also to pay the appellant S$2m in full and final settlement of the division of matrimonial assets and spousal maintenance.

3 On 7 October 2020, the respondent filed FC/SUM 3029/2020 ("SUM 3029") for a reduction in his monthly maintenance from S$5,779 to S$2,500. He also sought orders to share the costs of the children's tertiary education expenses equally. On 24 February 2021, the appellant filed FC/SUM 607/2021 ("SUM 607") for an upward variation of the children's monthly maintenance from S$5,779 to S$8,500. She wanted the respondent to pay fully for the children's tertiary education. She also sought a division of the assets concealed by the respondent during their settlement negotiations which led to the IJ in 2010. This included money in his UBS account and his interest in one "Company X" (collectively, the "Undisclosed Assets").

4 In respect of both applications, the District Judge ("DJ") held that:

(a) The respondent should have but omitted to disclose the Undisclosed Assets. This non-disclosure was not fraudulent and therefore the appellant was not entitled to a percentage of the Undisclosed Assets.

(b) C1's reasonable expenses were S$5,389 and C2's reasonable expenses were S$5,519. The appellant was to bear 40% and the respondent was to bear 60% of the expenses.

(c) Regarding the children's tertiary education, the respondent was to bear their university fees, insurance and flights, and the appellant was to bear their living expenses including accommodation expenses.

5 The appellant appeals against the DJ's entire decision.

Non-disclosure of matrimonial assets

6 Section 112(4) of the Women's Charter 1961 (2020 Rev Ed) (the "WC") provides the court the power to vary a consent order for the division of matrimonial assets. The appellant wants to vary the terms of division under Clause 15 of the IJ, which has been fully implemented. Clause 15 provides as follows:

> 15. The [respondent] shall pay the [appellant] the sum of SGD$2 million in full and final settlement of the issue of division of assets and her lump sum maintenance.

7 The disclosed pool of matrimonial assets based on a joint asset list prepared by the respondent's lawyers in July 2008 totalled S$4,494,382. Following several rounds of negotiations, the appellant accepted a settlement sum of S$2m, which constituted approximately 44.5% of the disclosed assets. The appellant claims that the existence of the UBS account came to light inadvertently when the respondent disclosed it in his supporting affidavit for SUM 3029. A forensic investigative report commissioned by the appellant valued this account at US$1,942,085 at the time of the IJ. The appellant subsequently found out that the respondent had also failed to declare his interest

in Company X, a company registered in 2004. The original registered capital of another company "invested and established" by Company X was US$800,000. Based on the above information, the appellant estimates that the respondent had deliberately and dishonestly concealed assets worth US$2,742,085 (*ie*, S$3,227,276) at the time of the IJ. The respondent does not dispute that these assets were omitted, though he disputes the appellant's valuation of these assets.

8 The issue therefore, is whether the IJ should be set aside or, alternatively, varied, because of the respondent's non-disclosure. A court may exercise its power to vary a division order under s 112(4) of the WC, even those executed by consent and fully implemented, on the basis of fraudulent misrepresentation or non-disclosure: see *AYM v AYL* [2013] 1 SLR 924 at [30] and *BMI v BMJ and another matter* [2018] 1 SLR 43 ("*BMI v BMJ*") at [5]. However, proof of fraud requires compelling evidence. The DJ found that although the respondent had inconsistent narratives on the provenance of the UBS account, he was not persuaded that the non-disclosure was dishonest. The DJ also found the respondent's false statement that Company X was registered in 2018 to be "wanting" but he noted that the appellant would have been aware of the alleged fraud as early as 2019 when she filed a summons application regarding the children's maintenance. However, she took no action even when the application went on appeal.

9 Next, the DJ found that even if the respondent's omissions constituted fraudulent non-disclosure, there was no legal (or practical) basis for him to assess how much the appellant ought to receive. Fraud is a vitiating factor which would render the entire IJ void. This meant that the appellant would, amongst other things, be required to reimburse the S$2m she had received and go through a fresh hearing on the ancillary matters 15 years after the divorce. However, the

appellant does not want the IJ to be set aside. She wants to receive 44.5% of the undisclosed amount. The DJ found that there was no authority for a partial assessment of the share of undisclosed matrimonial assets.

10 Counsel for the appellant, Ms Tan Siew Kim, submits that the burden to make a full and frank disclosure of their assets lies entirely on the respective parties to the divorce: see *USB v USA and another appeal* [2020] 2 SLR 588 at [46]. She says that the respondent was legally represented at the negotiations, yet he deliberately omitted his interest in Company X and his UBS account. She claims that the DJ had erred by shifting the burden onto the appellant and questioning her failure to make further inquiry. She also says that the remedy is to draw an adverse inference against the respondent for his concealment of his assets: see *BPC v BPB and another appeal* [2019] 1 SLR 608 ("*BPC v BPB*") at [60]. She suggests that by applying the "quantification" method, the court may add the undisclosed sum of S$3,227,276 to the pool of matrimonial assets and award the appellant 44.5% of the total assets. This, she submits, would give the appellant an additional 44.5% of S$3,227,276 (*ie*, S$1,436,137.82).

11 At the hearing below, the respondent claimed that none of the Undisclosed Assets were relevant for the purposes of disclosure as the moneys were loans from his former business partner. The appellant was aware, at the time of the IJ, that the respondent had taken some loans. After the death of his business partner, the estate waived off the loans in exchange for the respondent's assistance in unencumbering certain assets. On appeal, the respondent says that the contemporaneous documents do not reveal fraud and that he never represented to the appellant during their negotiations that he had made full and frank disclosure of all his assets.

12 Counsel for the respondent, Mr Raymond Yeo, argues that parties' negotiations for a divorce settlement need not always be grounded on a full and frank disclosure, especially when they were communicating directly and were represented by counsel. For instance, spouses may sometimes agree to divide the matrimonial home and retain the assets held in their sole names. When the appellant told the respondent that she will accept S$2m in full settlement on 13 February 2009, he replied that he would only accept "under protest" pending a "global settlement of all the ancillary matters". Mr Yeo argues that if the respondent had dishonestly concealed his assets, he would have immediately accepted the offer without qualifying his consent, and he would also not have subsequently asked for an extension of time to make payment as this would have risked litigating a settlement which was already in his favour.

13 I do not accept Mr Yeo's submission that parties do not always need to make full and frank disclosure in negotiating a divorce settlement. The responsibility of full and frank disclosure applies not only to contested proceedings but also to exchanges of information between parties and their solicitors leading to consent orders: see *TVJ v TVK* [2017] SGHCF 1 at [66]. Indeed, had the respondent been forthright from the beginning by disclosing all his assets to the appellant and making a clear offer to only divide some of them, he would have avoided the litigation today.

14 In my view, the respondent's conduct reveals a pattern of deliberate concealment rather than mere oversight. He first claimed that the UBS funds originated from the sale of stock options, only to later assert they were loans for investments which were subsequently waived by his late business partner's estate. His inconsistent narratives suggest an attempt to conceal his assets rather than a genuine explanation for their non-disclosure. Similarly, there is nothing

to show that Company X was created on the purported loans extended by his former business partner. There is no justification for the respondent's false statement that Company X was registered on 16 November 2018, when documentary evidence indicates that he had been its sole shareholder since August 2004. Such a significant misrepresentation about a company he owned for two decades cannot be an innocuous error.

15 Nevertheless, if the appellant was aware, at the time of the IJ (*ie*, 23 March 2010), that the respondent had omitted assets from the joint asset list but nonetheless accepted a fixed settlement sum of S$2m, she should not be permitted to renege on the basis of fraudulent non-disclosure now.

16 To that end, the respondent argues that the appellant only listed two assets in her name during the parties' negotiations, despite having other assets including a charitable organisation and shares in a private company. It would have been apparent to the appellant that the respondent had also left out certain assets, but she was only focused on the lump sum she could obtain. The respondent also says that from the affidavits filed by the appellant across the years, one could infer her state of knowledge at the time of the IJ. For instance, she appeared to be aware that the respondent was the "shareholder of a BVI [*ie*, British Virgin Islands] company" and "own[ed] an apartment in central Beijing". She also knew that he "came from money" and owned shares in the family company. Yet, she never asked to include those assets in the joint asset list during their negotiations. The appellant also alluded in an affidavit in 2012 that the respondent had kept many assets of his own and that those "[did] not include the assets not disclosed".

17 Although these affidavits were filed after the IJ, they suggest that the appellant was aware of the respondent's non-disclosure even before they entered into the settlement. I am therefore of the view that even if the respondent had deliberately concealed assets, the possibility of non-disclosure was a factor which the appellant was cognisant of at the time the IJ was made. Any non-disclosure by the respondent was therefore unlikely to have been material to the outcome: see *BMI v BMJ* at [11]. Furthermore, I agree with the DJ that any analysis of what would have transpired during the negotiations from 2008 to 2010 had all the assets been disclosed remains speculative. Would the parties have managed to reach a settlement, or would they have ended up in court? If the matter had been litigated, would the court have awarded the appellant 44.5% of the total pool of matrimonial assets?

18 This brings me to my next point that even if I find the non-disclosure to be material, the remedy cannot be to retrospectively increase the pool of matrimonial assets and award the appellant 44.5% of the undisclosed sum. The appellant relies on the "quantification approach" discussed in *UZN v UZM* [2021] 1 SLR 426 at [28]. But this approach is generally used by the courts during ongoing ancillary matters hearings when there is evidence of non-disclosure. The present case is fundamentally different. Here, the terms of the IJ were agreed upon 15 years ago and Clause 15 has been fully implemented, with the appellant having received and retained the S$2m settlement sum. There is no legal basis to allow the appellant to keep the S$2m and simultaneously receive an additional award based on the Undisclosed Assets. The principle that fraud unravels all means that if fraud is established, Clause 15 of the IJ must be set aside entirely — not partially varied. The parties must then either litigate afresh or reach a new settlement on the division of their matrimonial assets.

Maintenance of the children

19 Turning to the issue of maintenance, Ms Tan argues that the DJ had erred by examining the "reasonableness" of the expenses claimed by the appellant and "moderating" her figures based on an arbitrary concept of reasonableness. She says that the variation application was not a *de novo* application and therefore, the DJ's role was not to determine the children's reasonable expenses afresh: citing *ATS v ATT* [2016] SGHC 196 at [12] and *DX v DY* [2004] SGDC 239 at [20]. Instead, the DJ ought to have focused on how the change in circumstances warranted a variation of the order. According to the appellant, the current expenses of C1 and C2 are S$7,395.98 and S$7,525.98 respectively.

20 The respondent's position is that the DJ had "erred on the side of generosity" in determining C1's expenses to be S$5,389 and C2's expenses to be S$5,519. Nonetheless, he is prepared to respect and accept the orders made. He supports the DJ's scrutiny of the appellant's claimed expenses, contending that they reflect a lifestyle beyond her means.

21 I accept Ms Tan's submission that in a variation application, the court must proceed on the basis that the original maintenance order was appropriate when it was made. The children's needs appear to have increased over the 15 years since the IJ was made. To determine the appropriate variation, the DJ was entitled to examine the reasonableness of the claimed expenses in relation to the children's current needs. The DJ considered the expenses of both children and concluded that the expenses to be S$5,389 for C1 and S$5,519 for C2. Having reviewed his assessment, I find no basis to disturb these findings. He was not making a fresh maintenance order, but a variation of the original order.

22 The next issue concerns the appropriateness of the DJ's apportionment of the children's expenses. Ms Tan submits that the respondent should bear 80% and the appellant 20% of the total expenses as this reflects their respective financial abilities and income capacities. She contends that the respondent's income capacity and financial position have improved significantly since the IJ. According to her, the respondent had an average monthly income of S$61,859 in 2020, purchased a luxury apartment worth S$1.2m in Portugal, purchased a new Mercedes GLC300 and stays in a luxury apartment worth S$6.7m "in the heart of Orchard Road". She claims that he has S$11,594,693 today — which is almost a five-fold increase of his alleged S$2.4m net worth back then.

23 The respondent disagrees with the appellant's assessment of his financial situation. He says that he faced a financial "downturn" after 2020 due to failed investments in a real estate project and a startup in China. He claims that the Portuguese property was bought before his economic losses, his Mercedes GLC300 was purchased by his parents and the net asset value of his Orchard Road property is much lower than S$6.7m as there is an outstanding loan of S$2m. He also claims that his monthly income in 2023 was S$14,776 which was significantly less than the S$40,411 at the time of the IJ.

24 The respondent claims that the appellant earns a substantial monthly income of S$12,761 despite refusing to work. This income comes from various investments and rent collected from a condominium property she has owned since 2010. The rental income has even increased recently from S$4,900 to S$7,300. He contends that there is no reason for the appellant's continued unemployment, given that the parties had contemplated her return to the workforce once the children entered primary school. He emphasises that her bachelor's degree and experience operating a small food company as well as

founding a non-profit organisation, make her well-qualified for gainful employment.

25 Having considered the parties' competing submissions about their respective financial positions, I am not persuaded that the DJ's apportionment requires adjustment. Both parties attempt to downplay their financial abilities while emphasising the other's apparent affluence. Although the respondent undoubtedly maintains a stronger financial position than the appellant, this alone does not justify the 80:20 split sought by the appellant. The appellant has been continually unemployed, despite Clause 12 of the IJ clearly contemplating her return to work when the children reached primary school age. Twelve years have passed since C2 turned seven, and despite her academic qualifications and business experience, the appellant appears to have made minimal effort to secure employment. Furthermore, the appellant derives substantial passive income from her investment portfolio and rental income. The current 60:40 apportionment appropriately reflects both parties' earning capacity and financial abilities. In these circumstances, I see no basis to disturb the DJ's findings.

26 The final issue relates to the expenses for the children's tertiary education. Clauses 12, 13 and 14 of the IJ provide as follows:

> 12. For the avoidance of doubt, it is expected that the [appellant] shall eventually contribute to the maintenance of the two children by securing some form of gainful employment when the children are of primary school going age i.e. 7 years old.
>
> 13. The [respondent] will continue to pay for the children's education/fees directly to their school. The [respondent] shall also pay for the monthly premiums of the children's comprehensive medical insurance directly to the insurer capped at S$450/mth and reimburse the [appellant] of any

> medical expenses not covered by the policies, subject to his consent being sought prior to the expenses being incurred.
>
> 14. The [respondent] will, in principle, also pay for the children's education including their tertiary education when the appropriate time comes. This shall be determined at the appropriate time in the future based on the financial abilities of both the parties and the academic abilities of the children.

27 Ms Tan argues that Clause 13 establishes the respondent's continuing obligation to fully pay for the children's school fees through to tertiary education, subject only to the conditions in Clause 14. She interprets Clause 14 as requiring the respondent to pay the university fees in full, unless he is financially unable to do so. Given the respondent's current financial capacity, she argues he should bear the university fees, insurance, accommodation and flights, whereas the appellant covers meals, clothing and other living expenses. She submits this interpretation "gives effect to the intent of the parties".

28 Mr Yeo argues that the appellant's position is misconceived. He says that Clause 14 explicitly requires consideration of both parties' financial abilities and the children's academic abilities. Clause 12 provides for the expectation that the appellant will contribute towards the children's maintenance, including tertiary education.

29 In my view, the proper interpretation of the IJ does not support the appellant's position. Although Clause 14 records the respondent's in-principle agreement to pay for the children's tertiary education, it expressly qualifies this obligation with the crucial phrase that the extent of such payment "shall be determined at the appropriate time in the future based on the financial abilities of both the parties". This qualification is significant as it contemplates a future assessment of both parties' financial circumstances. It aligns with Clause 12, which explicitly envisages the appellant's eventual contribution to the

children's maintenance through gainful employment. It would be inconsistent with the spirit and letter of the IJ to interpret Clause 14 as imposing a unilateral obligation on the respondent while disregarding the clear expectation of the appellant's future financial contribution to the children's maintenance. Therefore, the DJ's order on the apportionment of the children's tertiary education expenses ought to remain.

30 For the reasons above, the appeal is dismissed. Parties are to submit on the question of costs within 14 days of this judgment.

- Sgd -
Choo Han Teck
Judge of the High Court

Tan Siew Kim and Koh Zhen Yang (Sterling Law Corporation) for the appellant;
Yeo Chee Chye Raymond (Raymond Yeo) for the respondent.