

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2026] SGFC 73

OAD No. 5374 of 2025
Summons No. 2808/2025

Between

YEC

... Applicant

And

YED

... Respondent

FOUNDATIONS OF DECISION

[Family Law – Section 56, the Women’s Charter 1961 - Right of occupation –
Deserted Wife’s Equity]

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**YEC
v
YED**

[2026] SGFC 73

Family Court — OAD No. 5374 of 2025
(Summons No. 2808 of 2025)
District Judge Sheela Kumari Devi
28 April 2026

15 May 2026

District Judge Sheela Kumari Devi:

Introduction

1. The central issue before the Court in this application is whether the Applicant wife (“**Wife**”) has, pending the conclusion of divorce proceedings, a right to occupy and possess a home that was acquired by the Respondent husband (“**Husband**”) pre-marriage which she asserts to be the matrimonial home.

2. This is the second marriage for both parties. Parties registered their marriage on 19 September 2019. The Wife has two daughters from her previous marriage, and the Husband has a son from his previous marriage. The Wife’s

daughters are 20 years old and 16 years old respectively.¹ It is not disputed that the Wife receives the sum of \$3,866 as child maintenance for her daughters from her ex-husband.² The Husband's son is 24 years old and has mental health issues.³

3. Both parties came into the marriage with their own respective properties. The Wife has a fully paid up 3-room flat at Blk xxx Toa Payoh Lorong Singapore (the "**Toa Payoh Flat**") and the Husband has a fully paid-up property at xxx Riverina Crescent (the "**Riverina Property**"). Both properties were fully paid up prior to the parties entering the marriage.

4. Although the period when the Wife and her daughters moved into the Riverina Property is in dispute, it is not in dispute that they have been residing in the Riverina Property at the very least from 24 August 2020 (based on the Husband's case) and are presently residing there. The Wife asserts that she, her daughters and her domestic helper moved into the Riverina Property even before parties were married in or around November 2018.⁴ The Husband asserts that parties were residing at the Toa Payoh Flat prior to the marriage and after the marriage up until August 2020 when the Wife and her daughters moved into the Riverina Property during the COVID pandemic.⁵

¹ AA1 para 11

² RA1 pgs 68 to 69

³ RA1 para 26

⁴ AA1 para 13

⁵ RA1 pg 17(e) and pg 18(i)

5. The Wife filed for divorce against the Husband on 15 October 2025. At the point of hearing of this application, Interim Judgment has not been granted yet.

6. In the present application, the Wife seeks, *inter alia*, the following orders to be made that:

- (a) pursuant to section 56 of the Women's Charter 1961, there be an order that the [Wife] has a right of exclusive occupation and/or exclusive possession of the former matrimonial home known as and situated at [the Riverina Property] together with the children of the marriage until such time that the ancillary matters in FC/OAD 5374/2025 is concluded and determined by an Order of Court inclusive of any and all appeals.
- (b) further and/or in the alternative, that there be an order that the [Wife] has a right of occupation and possession of the former matrimonial home known as and situated at [the Riverina Property] together with the children of the marriage until such time as the ancillary matters in FC/OAD 5374/2025 is concluded and determined by an Order of Court inclusive of any and all appeals.

7. For the avoidance of doubt, the reference to the children of the marriage in the Wife's present application is to her daughters from her previous marriage.

8. Prior to the Wife's filing of the divorce proceedings in October 2025, the Husband filed HC/OA 1326/xxx ("OA 1326") in December 2024 and obtained the following orders on 8 July 2025 (the "8 July Order") before the Honourable Justice Vinodh Coomaraswamy:

- (a) It be and is hereby declared that the [Husband] has been, since the date of acquisition to date, the sole legal and beneficial owner of the property situated and known as [the Riverina Property].
- (b) The [Wife] shall deliver vacant possession of the [Riverina Property] (together with the remote control devices and keys to the pedestrian gate of the front gate, keys or access cards and codes to all the locks and doors, transponders, CCTV cameras and recording devices with related accessories) to the [Husband] no later than 8 October 2025.
- (c) The [Wife] shall pay to the [Husband] damages of \$700 for her trespass on the [Riverina Property].
- (d) The [Wife] shall pay to the [Husband] the costs of and incidental to this application, such costs fixed at \$8,000 including disbursements.
- (e) The Parties shall have liberty to apply in relation to any matters arising out of the interpretation or implementation of this order.

9. On 6 November 2025, pursuant to the Wife’s application in HC/SUM 3004/2005 (“**SUM 3004**”), the General Division of the High Court (“**High Court**”) made the following orders (the “**6 November 2025 Order**”):

- (a) Subject to paragraph 2 below, execution of Paragraph 2 of the [8 July 2025 Order] is hereby stayed until 21 November 2025.
- (b) If by 20 November 2025, the [Wife] has filed an application in the Family Justice Courts under section 56 of the Women’s Charter 1961,

execution of Paragraph 2 of the [8 July 2025 Order] shall be stayed until such application is concluded by a determination of the court including all appeals.

- (c) The Parties shall have liberty to apply for directions in respect of any issue arising out of the interpretation and implementation of this Order.
- (d) The [Wife] shall pay costs of and incidental to this application to the [Husband] fixed at S\$3,000 including disbursements.

Affidavits filed by the parties

- 10. Parties filed the following affidavits in the present application:
 - (a) the Wife’s supporting affidavit filed on 20 November 2025 (“**AA1**”);
and
 - (b) the Husband’s reply affidavit filed on 22 January 2026 (“**RA1**”).
- 11. The Husband has also filed a Notice of Intention to refer to the following affidavits filed by the parties in OA 1326 and SUM 3004:
 - (a) the Husband’s supporting affidavit filed on 19 December 2024;
 - (b) the Wife’s reply affidavit filed on 8 March 2025;
 - (c) the Wife’s supplemental affidavit filed on 11 June 2025;

- (d) the Husband’s reply affidavit filed on 25 June 2025;
- (e) the Wife’s supporting affidavit for SUM 3004 filed on 14 October 2025;
and
- (f) the Husband’s reply affidavit for SUM 3004 filed on 28 October 2025.

Wife’s Case

12. In support of the Wife’s application, she advances the following arguments⁶:

- (a) Section 56 of the Women’s Charter 1961 (the “**Charter**”) allows the Wife to remain resident at the Riverina Property which she asserts to be the matrimonial home pending the determination of the ancillary matters.
- (b) By operation of law, pursuant to section 112(10) of the Charter, the Wife has accrued to her beneficial proprietary rights to the Riverina Property.
- (c) By operation of law, a constructive trust has arisen such that the Wife has accrued to her equitable proprietary rights to the Riverina Property.

Exclusive occupation and possession

13. Although the Wife has prayed for exclusive occupation and possession of the Riverina Property, none of the above arguments advanced by her support

⁶ Wife’s Submissions filed on 15 April 2026 (“AS”) at para 8

the position that she is entitled to exclusive possession and occupation. In the circumstances, I am dismissing her prayer for exclusive occupation and possession at the outset.

14. I go on to consider whether any of the arguments advanced by her grant her a right of occupation and possession in the Riverina Property.

Does section 56 of the Charter confer rights of occupation and possession to the Wife?

15. Section 56 of the Charter provides for a summary procedure for deciding questions between husband and wife as to the title and possession of any property. In *Walker James Edward v Hong Geok Choo* [1996] SGHC 87⁷, the Honourable Justice Judith Prakash (as she then was) made the following remarks regarding section 56 applications:

“Such disputes are to be determined in accordance with established principles of property law and the court does not have the jurisdiction conferred by [the predecessor of section 112 of the Charter] to re-order the proprietary interests in the property. Thus the spouse claiming a beneficial interest in the property must establish a legal or equitable basis for his claim.”

16. In *Lee Leh Hua v Yip Kok Leong* [1999] 1 SLR(R) 554⁸ at [25] to [26], the High Court noted that the former section 59 (now numbered section 56) was modelled after section 17 of the Married Women’s Property Act 1882 in England and that it is settled law that this provision is merely procedural in nature and does not give the power to the court to vary or defeat the vested

⁷ AS Tab 10

⁸ Husband’s Bundle of Authorities filed on 14 April 2026 (“**RBOA**”) at Tab F

interests of property. The High Court, in *PQR v STR* [1992] 3 SLR(R) 744⁹, held that under section 56 of the Charter, a court did not have unfettered discretion in determining the parties' property rights. It had to do so according to property law and the law of trusts. This point was reiterated by Professor Leong Wai Kum in her treatise, *Elements of Family Law in Singapore* (LexisNexis, 3rd Ed, 2018) ("*Elements of Family Law in Singapore*") at pg 491. Professor Leong also noted that the advantages that the former section 59 (now section 56) makes available to "husband and wife" are merely formal in character and the "net effect is that it will be faster and cheaper for spouses to have their dispute resolved compared with non-spouses who have similar dispute over property".

17. In another local academic text, *Marriage, Spouses and Assets* (SAL Academy Publishing, 2025) at pg 186¹⁰, Professor Leong Wai Kum opines as follows regarding section 56:

“7.85 The House of Lords in Pettitt v Pettitt had unanimously decided, that apart from the largely procedural advantages to spouses, there is a limited discretion available to the judge as to whether and how the judge would enforce the rights of ownership of the spouse who owned the property.

7.86 Rights by the law of property must be respected and the judge must declare them accordingly, but, where it seems right to do, the judge can order that the owner-spouse should defer the exercise of her rights over the property at least until some provision for the other spouse has been made.

...

⁹ RBOA at Tab G

¹⁰ RBOA at Tab O

7.88 *As it turns out, the judge’s discretion with regard to the owner’s exercise of her ownership rights over the property is, in reality, not broad.*

7.89 *There is not even a reported decision where any court has exercised this limited discretion.*

7.90 *On principle, the court needs to balance the interests of the spouse who owns the property with that of the spouse asking the court not to allow the owner to exercise her rights over the property, and also consider the interests of any third party who may be affected by such court order. Only where all these considerations point in favour of the court exercising its discretion would the court do so.”*

18. In *Elements of Family Law in Singapore* at pg 491, Professor Leong Wai Kum sets out that one possible instance of exercise of the discretion to restrict the rights of the spouse who owns the property could be when the owner-spouse is in the process of selling the property that is the matrimonial home:

“[14.030] As an owner, her right to dispose of the property is unrestricted. Where the property is the matrimonial home, however, the judge may decide to restrict this right in view of the obligation under the family law this spouse owes her spouse and child, if any, to make available his property for their occupation as matrimonial home. This obligation to make property available for use as the couple’s matrimonial home is one of the directly enforceable obligations that flow from their consortium by the Women’s Charter section 46(1). This is also one among the enforceable parental responsibilities towards a dependant child. Therefore, when the sale has not been completed, it is possible for the judge to order that the sale be postponed or, alternatively that the sale be conditional on the owner-spouse making another property available to serve as substitute matrimonial home. The limited discretion is only exercisable where the applicant-spouse discovers the proposed sale while it is still in progress and takes action to protect herself and the child before the sale is completed. Where the sale is completed, there is very little likelihood a judge would order it rescinded for the benefit of the spouse or child of the seller.

[14.031] Whether the discretion is exercised, will any case, depend on the judge's assessment of three, possibly, conflicting considerations:

- 1 how onerous this restriction is on the spouse who owns the property;*
- 2 how badly off the other spouse or the couple's child will be if the property that is the matrimonial home is disposed of before a substitute matrimonial home that is made available; and*
- 3 how fair an order to abort or postpone the sale will be to the potential purchaser?*

It is only where the judge assesses these to favour an order to abort or postpone the sale that she will proceed. ... ”

19. I refer also to the oral grounds of the High Court in determining OA 1326 where the Honourable Justice Vinodh Coomaraswamy stated as follows:

“It is common ground that the Court has a concurrent jurisdiction to decide the property rights or the rights of possession to property as between spouses either in its general jurisdiction by way of an originating process or by way of the summary procedure provided in Section 56 of the Women's Charter. The [Husband] has chosen to invoke the Court's general jurisdiction by way of an originating process.

And there is nothing that precludes the Court from her exercising that jurisdiction simply because an alternative under Section 56 is available.

...

Given that I have found that the [Wife] has no property right in the [Riverina Property], it follows that she has no right to retain possession of the property against the [Husband]. And therefore it also follows that the [Husband]'s application for possession of the [Riverina Property] ought to be granted.”¹¹

20. As can be seen from the above, the question of title and possession of the Riverina Property has already been decided by the High Court in OA 1326.

¹¹ RA1 pg 57 line 17 to pg 59 line 25

I note also that the High Court, in making its orders on 8 July 2025, gave the Wife a period of 3 months to hand vacant possession of the Riverina Property over to the Husband.

21. At the hearing before me, the Wife’s counsel submitted that the summary procedure under section 56 permits the Family Court to go further as this provision considers the matrimonial jurisdiction. This was elaborated in the further submissions filed by the Wife’s counsel post-hearing. In summary, the Wife’s position is as follows¹²:

- (a) A spouse cannot, by separate civil proceedings, unilaterally curtail the other spouse’s personal rights in relation to matrimonial property pending ancillary proceedings, as such an attempt constitutes an abuse of process.
- (b) The Husband can only apply for relief under section 56 and nowhere else, and the Family Court is obviously the only court to determine the issue of the Wife’s rights to occupy the matrimonial home. The Husband’s application to evict the Wife is rightly stayed in the High Court as he has no locus standi to bring the action in the General Division of the High Court but ought to have brought the same in the Family Court under the latter’s matrimonial jurisdiction.

22. In my view, the above positions should have been canvassed before the High Court at the hearing of OA 1326.

¹² Wife’s Further Submissions filed on 5 May 2026 (“AFS”) at paras 32 and 33

23. Nonetheless, it is also clear from the various cases and that the academic texts set out above that the clear and express purpose of section 56 does not allow me to “go further” and re-order the proprietary interests in the property under the guise of some free-standing matrimonial jurisdiction or power. I agree with the Husband’s counsel that there is simply no basis for this Court to adjudicate the issue on these grounds as the question of title or possession of the property has already been determined by the High Court based on proprietary rights.

24. From the academic discussion set out above in relation to section 56, there is reference to the judge having a *limited* discretion to decide whether and how the judge would enforce the rights of ownership of the spouse who owns the property though there is acknowledgement that there has not been a reported decision where any court has exercised this limited discretion. A possible scenario discussed in the academic text is the Court making orders to postpone a sale of the property or making the sale conditional on the provision of alternative accommodation to the affected spouse.

25. I accept that there appears to be room for the Court to exercise discretion under section 56, to “*make any order with respect to the property in dispute*” to consider how and whether the exercise of rights by the owner-spouse over the property should be deferred until at least some provision for the other spouse has been made. In my view, the High Court has already exercised its discretion in deciding how to enforce the rights of ownership of the Husband by granting the Wife a period of 3 months to hand over vacant possession of the property. Even if it could be argued that the High Court had not expressly considered the issue of whether some provision had been made for the Wife before enforcing the Husband’s right of ownership in the Riverina Property and that I should now

consider exercising such discretion pursuant to section 56, I decline to exercise such discretion for the following reasons:

- (a) This was a short marriage by any standard. From November 2019 until the commencement of divorce proceedings in October 2025, the marriage was only about 6 years without any children born to the marriage. If one takes into account the fact that parties were already in active litigation with each other from December 2024, the marriage was only for a period of about 4 years.
- (b) The Wife has her own fully paid-up property which she has unilaterally chosen to rent out last year¹³ even while she would have been cognizant of the possibility that she may have to vacate the Riverina Property. While it is disputed whether her property had always been rented out from the start of the marriage, the fact remains she had chosen to enter into a new tenancy last year.
- (c) The Husband has not been able to access the Riverina Property since September 2022.¹⁴

26. Weighing the above factors, namely, the brief duration of the marriage, the fact that the Wife has her own property, that she has enjoyed the benefit of earning rental income on her own property while living at the Husband's property while he has been forced to live elsewhere, this was not a case where I would have been moved to exercise discretion to make further provision for the Wife beyond the period of 3 months that the High Court had already granted to

¹³ AA1 pgs 119 to 124

¹⁴ RA1 para 32

her to hand over vacant possession of the Riverina Property to the Husband. In fact, the Wife has enjoyed a *de facto* extension of the 3-month period by virtue of the limited stay order that was granted.

27. At the hearing before me, the Wife's counsel submitted that the Wife was a victim of family violence at the hands of the Husband and that she was unable to work due to her mental condition arising from the family violence and was therefore reliant on the rental income that she receives from her flat to provide for herself and her daughters. I am not in a position to make findings as whether acts of family violence have occurred as that ought to be properly considered by a family violence court which involves a trial process. However, in relation to the Wife's ability to provide for herself and her daughters as well as her need for shelter and accommodation, there are other mechanisms available in the Charter for the Wife to access if she feels she needs to.

28. As such, section 56 of the Charter does not assist the Wife's case.

Does the invoking of matrimonial jurisdiction give rise to the Wife acquiring an equitable interest in the Riverina Property?

29. The Wife submits as follows:

- (a) The matrimonial jurisdiction has since been invoked by virtue of her commencement of divorce proceedings.
- (b) The Riverina Property has been "*matrimonialised*" and transformed into a matrimonial asset.

- (c) As such, she has an equitable interest in the Riverina Property by operation of law and even more so because she asserts it to be the matrimonial home. Such an interest means that she enjoys the benefit of beneficial ownership including the right to reside at the Riverina Property until the court has determined and disposed of the ancillary matters.

30. In support of her position, the Wife refers to the following:

- (a) She makes various assertions to support her position that the Riverina Property is the matrimonial home.
- (b) She submits that the invocation of the matrimonial jurisdiction redefines assets from a separation of property regime to that of a community of property regime.
- (c) She cites the following cases in support of her position that the invocation of matrimonial jurisdiction is sufficient to found an interest in property:
- (i) *Lee Chi Lena v Chien Chuen Chi Jeffrey (Qian Jie, co-defendant)* [2011] SGHC 91 (“**Lee Chi Lena**”)¹⁵
- (ii) *Tan Huat Soon v Lee Mee Leng* [2009] SGHC 199 (“**Tan Huat Soon**”)¹⁶
- (iii) *Eu Yee Kai Alexander Junior (alias Eu Sandy) v Hanson Ingrid Christina* [2004] 4 SLR(R) 586 (“**Eu Yee Kai**”)¹⁷

¹⁵ AS Tab 3

¹⁶ AS Tab 5

¹⁷ AS Tab 6

- (iv) *Poh Choon Kia and another v Lim Hoe Heng and another* [2013] 3 SLR 268 (“*Poh Choon Kia*”)¹⁸

31. I examine the cases cited by the Wife in greater detail.

32. In *Lee Chi Lena*, which is a case involving an injunction applied for by the wife for a property registered in the husband and the co-defendant’s names, the High Court addressed the circumstances under which injunctive relief can be granted in matrimonial proceedings. The High Court referred to section 132(1) of the Charter (which is now section 139M) which empowers the court to grant an injunction to prevent the disposition of property if it is satisfied that such disposition is intended to deprive the other spouse of rights in relation to the property whether or not the said rights have accrued to the other spouse at the time the application was made.

33. The High Court at [5] held that the phrase “*any rights in relation to that property*” must be interpreted to include a spouse’s interests in claiming a share of matrimonial property, which is a basic and recognized legal right. The High Court rejected the notion that a spouse must demonstrate direct or indirect contribution to a specific matrimonial asset to establish an interest in it before ancillary matters are decided. The High Court clarified that the existence and nature of a spouse’s interest should not be confused with its quantum or scope and highlighted that injunctive relief may be granted if there are inadequate remaining matrimonial assets to satisfy the likely division proportion in favour of the non-disposing spouse. However, in the case at hand, the court found that

¹⁸ AS Tab 7

there were sufficient remaining assets, including the matrimonial home and unquantified cash assets, to satisfy the wife's likely entitlement.

34. In *Tan Huat Soon*, the High Court addressed the issue of whether a spouse has an equitable interest in matrimonial property sufficient to support the lodging of a caveat. The plaintiff argued that the defendant, his former spouse, had no such interest because her claim was based solely on the property being part of matrimonial assets. The court examined prior cases, including *Lim Kaling v Hangchi Valerie* [2003] SLR 377 ("*Lim Kaling*") and the unreported High Court decision in *Chai Mei Leng v Cheng William (No 2)* [1988] SGHC 381 ("*Chai Mei Leng*"), which suggested that a spouse without a decree nisi does not have an interest in the property sufficient to lodge a caveat. However, the High Court ultimately agreed with the reasoning in *Eu Yee Kai*, which held that the power of the court under section 112 of the Charter to divide matrimonial property creates an interest sufficient to support a caveat and dismissed the plaintiff's application to set aside the caveat.

35. In *Eu Yee Kai*, the High Court examined whether a caveat lodged against a matrimonial home should be removed under Section 115 of the Land Titles Act 1993 (the "**Land Titles Act**"). The plaintiff argued that the caveat was filed vexatiously and without reasonable cause, as it prevented him from obtaining financing and potentially deterred buyers. The defendant contended that the property was the parties' matrimonial home and it gave her a caveatable right or interest in the property as her rights had crystallized upon the granting of the decree nisi. The court at [27] ultimately declined to order the removal of the caveat protecting the defendant's interest in the matrimonial home in view of the interim order that the property should not be sold pending the decision on the ancillary issues.

36. In *Poh Choon Kia*, the High Court addressed the plaintiffs' entitlement to specific performance of a contract for the sale of an HDB flat. The plaintiffs sought to enforce the option to purchase against the first defendant, who failed to complete the sale due to his inability to obtain spousal consent and remove a caveat lodged by the second defendant. The court ordered the second defendant to withdraw her caveat lodged against the flat, citing section 127 of the Land Titles Act. The court at [62] found that the second defendant did not have a caveatable interest at the time of lodging the caveat, as no divorce proceedings had been initiated.

37. Having reviewed the cases, my views are as follows:

- (a) The cases recognise that a spouse may have an interest in an asset which is solely owned by the other spouse / jointly owned by the other spouse and a third party prior to the division of matrimonial assets in divorce proceedings. This is an interest that essentially refers to the non-owner spouse's entitlement to claim a share of the matrimonial asset (see *Lee Chi Lena* at [5]).
- (b) Having an entitlement to claim a share of an asset that is in the name of the other spouse does not equate to acquiring a beneficial interest in the said asset such that rights of occupation and possession arise. In this regard, I refer to the High Court's observations regarding section 112 of the Charter in *Ho Kiang Fah v Toh Buan* [2009] 3 SLR(R) 398¹⁹ at [16]:

“... A distinction must be drawn between W's proprietary rights and personal rights. Section 112

¹⁹ RBOA at Tab E

does not seek to declare or confer proprietary rights on a spouse where there are none. It must be remembered that the court's powers under s 112 to divide assets extends to those subsisting in the sole or joint names of the parties at the time of the hearing of ancillary matters. It is the spouse's personal rights as distinct from proprietary rights in relation to the matrimonial assets that the court adjudicates in ancillary proceedings applying the principles of a just and equitable division."

- (c) In *Tan Huat Soon* at [5], the “*spouse who is not a registered co-owner, will thus, by virtue of her entitlement to claim a share, have an equitable interest in the property.”* The reference to an equitable interest, in this regard, is not to a proprietary interest but to a spouse’s entitlement to claim a share in the said asset.
- (d) The Court’s broad role in protecting a spouse’s entitlement to claim a share of the matrimonial assets during pending divorce proceedings is to ensure that the ability of the spouse to receive their share is not defeated by a premature disposition of property. This is done by way of the statutory provisions in the Charter which provide for the granting of injunctive relief and/or setting aside any disposition of the property by the other spouse (see section 139M of the Charter). However, where there are available other assets to satisfy the party’s potential share, the Court will not invoke such mechanisms (see for e.g. *Lee Chi Lena*). In some cases, caveats have been lodged to protect the party’s entitlement and upheld by the Court (see *Eu Yee Kai, Tan Huat Soon* and *Chai Mei Leng*) though in other cases, it has been deemed that such an entitlement may be insufficient to support the registration of a caveat (see *Lee Chi Lena* at [5], *Lim Kaling*).

- (e) In the instant case, by virtue of the High Court's orders in OA 1326, the Husband has been declared the sole legal and beneficial owner of the Riverina Property. In making such a declaration, the High Court had dismissed the Wife's claim that there was a resulting trust and/or common intention constructive trust operating in her favour in respect of the Riverina Property. As such, the only *interest* the Wife can claim in the Riverina property is by virtue of her asserting that the Riverina Property is a matrimonial asset and she has an entitlement to claim a share in the same. In my view, this entitlement does not confer on the Wife a beneficial interest in the Riverina Property which will result in her having rights of occupation and possession. She is only entitled to make a claim a share in the said property for which she can seek certain reliefs as provided for in the Charter (such as injunctive relief) to prevent her entitlement from being defeated but it does not go so far as to confer proprietary rights on the Riverina Property such that she can claim occupation and possession of the property.
- (f) For completeness, I am not making any finding as to whether the Riverina Property is a matrimonial asset and/or that it is the parties' matrimonial home. My views above simply reflect the position that even if the Riverina Property was found to be a matrimonial asset and/or the matrimonial home, it would not entitle the Wife to a beneficial interest in the property such that rights of occupation and possession arise.

Has a constructive trust arisen, by operation of law, such that the Wife has accrued to her equitable proprietary rights to the Riverina Property?

38. This issue is now *res* as the High Court had adjudicated on this particular issue. I refer to the oral grounds of the High Court in determining OA 1326 where the Honourable Justice Vinodh Coomaraswamy stated as follows:

“The alternative argument and the sole argument that the [Wife] relies on today is that she has a beneficial interest by reason of a common intention constructed trust. It is disputed whether any such common intention was formed.

And on the evidence before me, I accept Mr Seet’s submission that no such common intention was formed to the certainty necessary to give rise to a common intention constructed trust. Even if such a common intention had been formed, I do not accept that the effect of that common intention can be to create a beneficial interest where none existed. Rather, it appears to me on the basis of Chan Yuen Lan, of the final limb of the rubric set out there, that the effect of such a common intention can be to enlarge a beneficial interest that already existed at the time of acquisition. But I do no[t] read that passage as going so far as to accept that it can create a beneficial interest, save in exceptional circumstances. To my mind, as I put to Mr Islam, accepting that such a common intention unsupported by consideration, formed after acquisition, can give rise to a beneficial interest, i.e. a proprietary interest, would undermine the entire law of contract, and perhaps even the law of trust. In this case, the [Wife]---or the [Wife]’s case is that by reason of her payment for the renovations to the property being an improvement to the property, that is a post-acquisition demonstration of the common intention that she should be---have a beneficial interest in the property. On the facts, I accept Mr Seet’s submission that the payment came in fact wholly or substantially from the applicant himself. Even if the payment came entirely from the [Wife], I do not accept that is a basis on which to find that she is now a beneficial owner of the property.

In addition, I do not accept that any discussion of making her a joint tenant together with the [Husband] amounts to give rise to

any such common intention. In fact, on the [Wife]’s own reasoning, that intention was never followed through upon in order to avoid having to pay additional buyer’s stamp duty. That, in itself, negates the intention to make her a joint tenant or to confer upon her beneficial interest. So too any intention to include the [Wife] in the [Husband]’s will cannot create a beneficial interest. At most, even if a will had been signed that named her as a beneficiary, you would give her as a mere spes ... or a mere hope of a future beneficial interest or ownership interest, and not at present proprietary interest sufficient to warrant recognition today.”²⁰

39. Given that the issue of a common intention constructive trust has already been considered by the High Court, this issue should not have been raised again in this present application.

Is the equitable doctrine of “deserted wife’s equity” applicable?

40. The notion of a “*deserted wife’s equity*” was raised for the first time in Singapore in the High Court decision of *UJT v UJR and another matter* [2018] 4 SLR 931²¹ (“*UJT*”), where the Court addressed the question of whether a grandmother, being a widow, had a right to occupy the matrimonial home. The Honourable Justice Valerie Thean (as she then was) had made the following observations:

“(1) Deserted wife’s equity

67 The question whether a widow has a right to occupy property which used to be the matrimonial home does not appear to be a question that the Singapore courts have addressed before. Professor Leong Wai Kum (see Elements of Family Law in Singapore (LexisNexis, 2nd Ed, 2013) at p 496) is of the view, and parties appear to accept, that Ainsworth represents the

²⁰ RA1 pg 58 line 9 to pg 59 line 19

²¹ AS Tab 9

position at common law in Singapore. In Ainsworth, the House of Lords held that a spouse’s right to occupy the matrimonial home was a “mere equity” and not an equitable interest, and that it was determinable at the discretion of the court. It was held to be an equity which arises under family law and enforceable only against the other spouse, not against third parties. It therefore has no proprietary effect.

...

69 Notwithstanding the position at common law, I note that in England, the Family Law Act 1996 (c 27) (UK) and its predecessors confer on a spouse or civil partner what has been called “a judicially protected right of occupation”: Richards v Richards [1984] AC 174 at 211A–B per Lord Scarman; see generally Charles Harpum, Stuart Bridge & Martin Dixon, Megarry & Wade: The Law of Real Property (Sweet & Maxwell, 8th Ed, 2012) (“Megarry & Wade”) at paras 34-023–34-024. The 1996 Act gives a spouse the right (a) not to be evicted from occupation; and (b) to enter and occupy with leave of the court. These rights are referred to as statutory matrimonial home rights and may be made enforceable against third parties by register entry. They may be brought to an end by the death of the other spouse, among other things. ...”

41. There does not appear to have been a local authority where a wife has sought to rely on this before in the context of a subsisting marriage. In the decision of the House of Lords in *National Provincial Bank Ltd v Ainsworth* [1965] AC 1175²² (“*Ainsworth*”) which overruled previous cases, it was unanimously held that a wife’s right of occupation, flowing from consortium, was only personal against her husband. As noted by Professor Leong Wai Kum in *Elements of Family Law in Singapore* at pg 518, this right is not even of the nature of an equity (the lowest proprietary interest) that would have run with the property.

²² RBOA at Tab L

42. As observed by the High Court in *UJT*, England has, post *Ainsworth*, gone further by conferring judicially protected rights of occupation through statutory provision. These statutory rights are gender neutral, do not depend on desertion and may bind third parties. However, the same approach has not been taken in Singapore. As such, as noted by Professor Leong Wai Kum in *Elements of Family Law in Singapore* at pg 518:

“[14.122] The only protection that the spouse with the right of occupation can look to then, is to obtain an injunction against an imminent disposal of the matrimonial home by the owner-spouse. The Women’s Charter section 59(1) does allow the judge hearing such an application some discretion whether to order that the owner-spouse’s exercise of her ownership incidents should be tempered in view of the personal right of her spouse.”

43. The Wife submits as follows²³:

- (a) This equity is the Wife’s right accruing from the state of the marriage.
- (b) It is invoked when a husband deserts a wife and when he attempts to oust her from the matrimonial home that she is living in or occupation during the marriage.
- (c) The doctrine extends to the Wife’s daughters from her previous marriage whom the Wife asserts to be the children of the marriage.

²³ AFS at para 15

- (d) The Wife thus has an equitable personal right against the Husband not to be removed from the matrimonial home during the marriage.

44. In response, the Husband submits as follows:

- (a) There has been no reception of the deserted wife's equity in Singapore. Disputes between spouses over property during marriage are resolved in the same manner as disputes between strangers, reinforcing the absence of any special equitable doctrine akin to the deserted wife's equity in Singapore.²⁴
- (b) The comments made by the High Court in *UJT* regarding the notion of the deserted wife's equity were *obiter* and therefore not binding. In any event, the High Court in *UJT* noted that unlike in England, there was no statutory scheme in Singapore conferring occupation rights on a non-owner spouse and suggested that legislative reform might be considered. As such, it is clear that there is no recognition, whether at common law or in equity, of a free-standing "*deserted wife's equity*" in Singapore and that any expansion of spousal occupation rights is a matter for legislative, not judicial, development.²⁵

²⁴ Husband's Further Submissions filed on 6 May 2026 ("RFS") at para 31

²⁵ RFS at paras 33 to 34

- (c) Even if it could be argued that such a doctrine was applicable in Singapore, it is plainly not engaged on the facts of the present case for the following reasons²⁶:
- (i) It is a short and childless marriage.
 - (ii) Each party has their own property from their respective previous marriage.
 - (iii) The High Court in OA 1326 has made findings of fact that have not been challenged by the Wife that she has trespassed on the Riverina Property since September 2022 and has denied the Husband entry to the property that he is the legal owner of. In this regard, the High Court has ordered the Wife to vacate the Riverina Property and pay damages for trespass to the Husband.
 - (iv) There is only a stay pending the Court's determination under section 56.
 - (v) The Riverina Property is not the matrimonial home and/or even if found that it could be the matrimonial home, the High Court has already provided a period of 3 months for the Wife to vacate the property.

²⁶ RFS at paras 42 and 43

45. Having considered the submissions and the relevant authorities, my views are as follows:

- (a) I note that there is no statutorily conferred right of occupation in Singapore unlike in England. The statutory protections in England which arose post-*Ainsworth* are also gender neutral and are not contingent on the spouse having deserted the other spouse. To that end, the relevance of the deserted wife's equity which can only be relied on by a wife and which requires her having been deserted by her husband is questionable in today's context and appears to have been overtaken by the statutory developments in England.
- (b) In any event, the objective of the deserted wife's equity which is to ensure that the wife has a roof over her head can also be considered in the context of section 56 which allows the Court to "*make any order*" with respect to the property in dispute. In that context, the Court may consider exercising some discretion whether to order that the owner-spouse's exercise of his/her ownership should be tempered in view of the personal right of the other spouse. To my mind, this is also consistent with the position of the House of Lords in *Ainsworth* which held that this equity was not an equitable interest but it was a mere equity that was determinable at the discretion of the court and has no proprietary effect.
- (c) In my view, the consideration of the exercise of discretion under section 56 will depend very much on the circumstances of each case and where the justice of the case lies. For example, in a case of a long marriage where the wife has been a home maker, one could plausibly argue in a section 56 application that she has a right of occupation in the

matrimonial home that is solely owned by the other spouse pending the conclusion of the divorce proceedings and that the Court should accordingly make orders to protect that right. This is not a definitive position as much would depend on the familial circumstances and/or whether an order for maintenance to cater for shelter and accommodation needs would be more appropriate. I would also observe that there may be attendant complications arising from recognising that a non-owner spouse has a right of occupation for example if there is damage caused to and/or accidents occurring in the said property. The better way forward to address shelter and/or accommodation needs may be to apply for maintenance.

- (d) For the reasons set out at paragraphs 25 to 27 above, I have already declined to exercise any further discretion under section 56.

Conclusion

46. For the reasons set out above, I dismiss the Wife’s application. Parties are to file their submissions on costs (not exceeding 5 pages) within 7 days. For the avoidance of doubt, time shall start to run, for the purposes of filing an appeal, from the date the costs order is given.

Sheela Kumari Devi
District Judge

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