IN THE APPELLATE DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2026] SGHC(A) 2

Appellate Division / Civil Appeal No 17 of 2025 and Summons No 44 of 2025

Between

XIT

… *Appellant*

And

XIS

… *Respondent*

In the matter of Divorce (Transferred) No 2880 of 2017

Between

XIS

… *Plaintiff*

And

XIT

… *Defendant*

JUDGMENT

[Family Law — Matrimonial Assets — Division]
[Civil Procedure — Appeals — Further evidence]

XIT
v
XIS and another matter

[2026] SGHC(A) 2

Appellate Division of the High Court — Civil Appeal No 17 of 2025 and Summons No 44 of 2025
Hri Kumar Nair JCA, Woo Bih Li JAD and Debbie Ong Siew Ling JAD
21 October 2025

12 January 2026 Judgment reserved.

Debbie Ong Siew Ling JAD (delivering the judgment of the court):

Introduction

1 It is well established that when a court divides matrimonial assets upon divorce, such assets should "generally be valued at the date of the ancillary matters hearing and hence be subject to the vagaries of movements in the property market during the period leading up to the hearing of the ancillary proceedings" (*BPC v BPB* [2019] 1 SLR 608 ("*BPC v BPB*") at [49]) and "any decision to depart from this should be accompanied by cogent reasons" (*BPC v BPB* at [26]). One of the main issues addressed in this judgment is when it is appropriate to depart from the use of the default operative date for valuing matrimonial assets.

2 AD/CA 17/2025 ("AD 17") is an appeal against the decision of a Judge sitting in the Family Division of the High Court ("Judge") in *XIS v XIT* [2025] SGHCF 21 ("Judgment").

Background Facts

3 The parties were married on 16 January 1993 in Melbourne, Australia. The appellant ("Husband") is presently 62 years old, and the respondent ("Wife") is 67 years old. The parties have three adult children.

4 The Husband is a director of Company [A], Company [C] and Company [D]. He has beneficial interests in these companies, and another Company [B], which we refer to collectively as the "Companies". The parties confirm that while the Husband is not the director of Company [B], its director, [K], is the nominee shareholder and director that holds the shares in Company [B] on trust for the Husband. The Wife was previously employed as an educator at the Institute of Technical Education.

5 In November 2000, after nearly eight years of marriage, the Husband moved out of the matrimonial home. The parties have different accounts of the circumstances surrounding their separation.

6 After close to 17 years living apart, the Wife eventually commenced divorce proceedings on 22 June 2017. An interim judgment of divorce ("IJ") was granted on 9 January 2018.

Related proceedings

7 In the lead up to the ancillary matters ("AM") proceedings, the parties disagreed over whether the Husband's shares in the Companies and two patents that the Husband had registered in his name (arising out of the Companies'

business) were matrimonial assets. The Wife took the position that these should be included in the pool. The Husband disagreed and argued that his relatives, in particular his sister, [Y], were the true beneficial owners of these shares and patents, as they had provided the initial capital for the Companies and funded the registration of the patents.

8 In 2018, the Wife filed a suit in the High Court against the Husband, the Companies, [Y] and the Husband's other relatives to seek, among other reliefs, a declaration of the Husband's beneficial ownership of the Companies and the patents ("HC Suit" as mentioned in the Judgment at [2]). It is not disputed that two weeks after the HC Suit was filed, the Husband made two transfers of shares in Company [A] and Company [D] to [Y], such that [Y] became the majority shareholder in these companies by a significant margin.

9 On 2 June 2022, the General Division of the High Court ("General Division") dismissed the Wife's claim in the HC Suit with respect to the patents but held that the Husband was the beneficial owner of 92.33% of the shares in Company [A]; 100% of the shares in Company [D]; 100% of the shares in Company [B] and 49% of the shares in Company [C]. The Husband and [Y] appealed against these findings. On 10 October 2023, the Appellate Division of the High Court upheld the General Division's findings in respect of Companies [A], [B] and [D], but varied the decision below by granting a declaration that the Husband was the beneficial owner of 45% (instead of 49%) of the shares in Company [C]. The value of the Husband's shares in the Companies was thus put into issue in the AM proceedings below, and now, before us on appeal.

Procedural history

10 On 24 January 2025, the AM hearing took place before the Judge, with the sole issue being the division of the parties' matrimonial assets. The Judge

issued his Judgment on 24 March 2025. The Husband filed his appeal on 3 April 2025.

11 On 9 August 2025, the Husband applied for permission to adduce further evidence in AD/SUM 38/2025 ("SUM 38"). On 24 September 2025, SUM 38 was allowed by consent of the parties, with costs of S$2,500 to be paid by the Husband to the Wife. We will address the further evidence adduced by way of SUM 38 below.

12 On 25 September 2025, the Husband applied for permission to adduce further evidence in AD/SUM 44/2025 ("SUM 44"). In brief, the Husband sought permission to adduce 15 pieces of new evidence, comprising eight pieces of documentary evidence and seven clarificatory statements in relation to the various issues raised on appeal. The Husband had also referred to these pieces of new evidence in his reply submissions filed in AD 17. SUM 44 was heard together with this appeal on 21 October 2025.

Decision below

13 We set out only the parts of the decision of the Judge that are germane to the issues raised on appeal.

14 The Judge applied the structured approach in *ANJ v ANK* [2015] 4 SLR 1043 ("*ANJ v ANK*") in dividing the assets pursuant to s 112 of the Women's Charter 1961 (2020 Rev Ed) ("Charter"). The Judge found the total value of the matrimonial assets to be S$11,465,301.33 (Judgment at [46]). He found the ratio of the parties' direct contributions to be 87:13 in the Husband's favour and the ratio of indirect financial contributions to be 80:20 in the Wife's favour. This led to an average ratio of around 53.5:46.5 in favour of the Husband (Judgment at [47] and [52]). A further 5% uplift was accorded to

the Wife, due to an adverse inference drawn against the Husband for failing to make full and frank disclosure of his assets (Judgment at [55]). The final ratio of division was 51.5:48.5 in the Wife's favour (Judgment at [58]).

15 The Husband appeals against eight aspects of the Judgment, which we briefly summarise here.

16 The first aspect is the Judge's decision to value the Husband's shares in the Companies as at a date closer to the IJ instead of a date closer to the AM hearing. Before the Judge, the Wife had submitted that the shares should be valued as at 31 December 2018 (allegedly at S$7,865,585), while the Husband had submitted that the shares should be valued as at 30 September 2023 (allegedly at S$3,786,382.50). The Wife had broadly argued that valuing the shares closer to the IJ was warranted as the Husband had purportedly taken action to reduce the value of the Companies. The Judge found that the Husband had not been frank in the disclosure of his assets and had dissipated his assets since the IJ date; he appeared to consider that this was a case of one party intentionally managing assets to the detriment of the other spouse (Judgment at [35] and [38]).

17 The second aspect is the Judge's decision to draw an adverse inference against the Husband and the consequential uplift of 5% made in favour of the Wife. The Judge found that the Husband had not made full and frank disclosure of his assets: he had maintained that he was not the true beneficial owner of the Companies during the HC Suit and on appeal. Even at the AM stage, he sought to conceal his assets by dissipating assets from the Companies and being uncooperative in disclosing his assets, such as the Singapore bank accounts and the Australian superannuation fund (Judgment at [55]).

18 The third aspect is the Judge's finding that the Husband had not proven that he had taken a loan from Company [A] to pay for Property [F] such that it was not taken into account as part of his liabilities (Judgment at [45]).

19 The fourth aspect is the Judge's decision to add the moneys the Husband had withdrawn for the purchase of Property [F] to the matrimonial pool. This amounted to S$685,930 (being equivalent to RM2,079,835) (Judgment at [14]).

20 The fifth aspect is the Judge's inclusion of funds in two joint Malaysian bank accounts held with [Y] ("Account 3612" and "Account 8336") in the matrimonial pool. The Husband submitted that Account 3612 was a trust account set up for the benefit of his late parents' grandchildren, and that Account 8336 was pledged to secure the Companies' overdraft facilities. The Judge did not accept this and found that the funds in these accounts should be included in the pool (Judgment at [25] and [31]).

21 The sixth aspect is the Judge's inclusion in the pool of funds used to acquire or renovate Property [G] (Judgment at [19]).

22 The seventh aspect is the Judge's inclusion in the pool of dividends from Companies [A] and [B] that were paid out in 2017 and 2018 in proportion to the Husband's beneficial ownership in the Companies as decided in the HC Suit and appeal (Judgment at [41]).

23 The eighth aspect is the Judge's decision that the ratio of indirect contributions is to be 80:20 in the Wife's favour (Judgment at [52]).

Issues in the appeal

24 The following issues arise for our determination. We summarise the issues into the following five categories:

(a) First, whether the Judge erred in departing from the default position by adopting the valuation of the Husband's shares in the Companies close to the IJ date ("Valuation Issue");

(b) Second, whether the Judge erred in drawing an adverse inference against the Husband and according a 5% uplift to the Wife's share ("Adverse Inference Issue");

(c) Third, whether the Judge erred in not finding that the Husband had taken a loan of S$544,702.03 from Company [A], such that this sum was not taken into account as part of his liabilities ("Loan Issue");

(d) Fourth, whether the Judge erred in including certain assets in the matrimonial pool ("Inclusion Issue"), namely:

(i) The moneys the Husband used to purchase Property [F];

(ii) The funds in Account 3612;

(iii) The sum of RM413,000 (S$136,290) in Account 8336;

(iv) The Husband's contribution to Property [G];

(v) The dividends paid by Company [A] in 2017 and the dividends paid by Company [A] and Company [B] in 2018; and

(e) Fifth, whether the Judge erred in his finding on the parties' indirect contributions ("Indirect Contributions Issue").

Our decision in respect of SUM 44

25 The Husband has applied to adduce 15 pieces of new evidence in SUM 44. These comprise eight pieces of documentary evidence and seven clarificatory statements in response to the Wife's case.

26 The Wife submits that SUM 44 ought to be dismissed as it does not meet the criteria for admission of further evidence on appeal, and the further evidence that the Husband seeks to admit does not assist his case. The Husband's position is that regardless of whether any of the new evidence could have been produced earlier, it is in the interests of justice to allow their admission on appeal so that the court may ascertain the true factual position.

27 We allow SUM 44 in respect of the documentary evidence but not the clarificatory statements.

28 The Husband must show that there are "special grounds" to allow the admission of further evidence, namely (a) that the evidence could not have been obtained with reasonable diligence for use at the hearing; (b) the evidence is such that, if given, would probably have an important influence on the result of the case, though it need not be decisive; and (c) the evidence must be apparently credible, though it need not be incontrovertible: *Ladd v Marshall* [1954] 1 WLR 1489 ("*Ladd v Marshall*"). It is not disputed that all the pieces of documentary evidence were available before the AM hearing date. However, although the criterion of non-availability is not fulfilled, we are cognisant that the *Ladd v Marshall* requirements do not apply strictly in the present case as the AM proceedings below were not akin to a trial (see *WRX v WRY* [2024] 1 SLR 851 ("*WRX v WRY*") at [21], citing *UJN v* UJO [2021] SGCA 18 at [4] and [8]).

29 The Husband adduces (a) emails purportedly showing the loss of the Companies' major client, [S]; (b) debit notes showing payment of freight charges from Company [A] to Company [B]; (c) evidence that dividend payments were made to [Y]; (d) evidence that payments from Company [B]'s Singapore dollar current account ("Account 9546") were income tax payments to the Inland Revenue Authority of Singapore ("IRAS") and legal fees incurred for the HC Suit; (e) a breakdown of the deposit from Company [B]'s US dollar current account ("Account 9622") to Account 9546 and outgoing payments from the latter account; (f) evidence of Bank Negara Malaysia's Regulations requiring all export proceeds to be repatriated to Malaysia within six months from the date of shipment for export; (g) payment vouchers made to [Y] reflecting the alleged assignment of the Husband and his brother's dividend entitlements to her; and (h) a legible copy of the Husband's passbook to account for part of the dividends paid from Company [A].

30 In our view, the aforementioned pieces of documentary evidence are pertinent to the issues in the appeal and are apparently credible. Evidence (a)–(f) are especially relevant to the question of whether the Husband had dissipated the Companies' assets, which is pertinent to the Valuation Issue, and as we explain below, are indicative of how the Husband had used the Companies' funds. Evidence (g) and (h) are relevant to the Inclusion Issue (*ie,* the inclusion of dividends paid from Company [A]). Considering the provenance of these documents, we find no reason to doubt the credibility of the evidence presented. We therefore allow SUM 44 in respect of these pieces of evidence and refer to them in our analysis below where relevant.

31 However, we find that there is no basis to allow the various clarificatory statements or explanations put forth by the Husband as they were not supported

by documentary evidence. These clarificatory statements will not be admitted as evidence.

Our decision in AD 17

32 We turn to our decision in this appeal, AD 17. For the reasons that follow, we dismiss AD 17 in respect of the Valuation Issue, the Inclusion Issue with respect to the moneys the Husband used to purchase Property [F], Account 3612, Account 8336 and Property [G], and the Indirect Contributions Issue. We allow the appeal in respect of the Adverse Inference Issue, the Loan Issue and the Inclusion Issue with respect to the dividends paid by Company [A] in 2017.

The Valuation Issue

Applicable law

33 In determining the operative date for the identification of the pool of matrimonial assets, the starting point is to adopt the IJ date as the operative date. As for the operative date for the valuation of the matrimonial assets, the starting point is to use the date of the AM hearing (see the Court of Appeal's decisions in *BPC v BPB* at [23]–[24] and [43]; *ARY v ARX* [2016] 2 SLR 686 ("*ARY v ARX*") at [34]–[36] and *TDT v TDS* [2016] 4 SLR 145 ("*TDT v TDS*") at [50]).

34 In *WQP v WQQ* [2024] 2 SLR 557, this court summarised the principle behind identifying matrimonial assets to be divided (at [35]):

> In *USB v USA and another appeal* [2020] 2 SLR 588 ("*USB*"), the Court of Appeal stated that "[t]he starting point in the division exercise … is the identification of the *material* gains of the marital partnership" [emphasis in original] (*USB* at [27]). The division of matrimonial assets under the Charter is founded on the prevailing ideology of marriage as an equal co-operative partnership of efforts; when the marriage is terminated, the contributions of the spouses to the marriage are translated into economic assets to be distributed according to s 112(2) of the

> Charter: *NK v NL* [2007] 3 SLR(R) 743 ("*NK*") at [20]. These economic assets which represent the material gains of the marriage partnership are matrimonial assets, defined in s 112(10) of the Charter …

35 Matrimonial assets, being the net material gains of the marriage, are identified at the date of the IJ, as the IJ practically puts an end to the marriage. In principle, assets acquired after the IJ date are not the material gains of the marriage and are not matrimonial assets. From a practical perspective, the adoption of the date of IJ enables divorcing parties to arrange their financial affairs, providing them the comfort of knowing when they will be taken as having moved into a different phase of their lives, and makes it easier for their counsel to advise them (*ARY v ARX* at [34]).

36 Having identified the matrimonial assets, they should then be valued. The valuation of this pool of assets should be subject to the vagaries of movements in the market during the period leading up to the AM hearing. As a matter of principle, both parties should take the benefits or losses associated with a matrimonial asset that arise from the lapse of time regardless of whether that matrimonial asset is jointly or separately owned, for marriage yields, upon its termination, a "deferred community of property" (*BPC v BPB* at [52]).

37 That said, while the general position is that the date of the AM hearing is the date that should be adopted for the purposes of valuing the matrimonial assets, the court retains the discretion to depart from that date where this is warranted on the facts (see *TDT v TDS* at [50]). The Court of Appeal in *BPC v BPB* reiterated at [43] that "the court should generally rely on the date of the [AM] hearing as the starting point in valuing matrimonial assets, and any decision to depart from this should be accompanied by cogent reasons".

38 The question in the present case is whether there were cogent reasons for departing from the default position for the valuation of the assets (*BPC v BPB* at [44]).

39 In *TDT v TDS,* the Court of Appeal decided not to value one company owned by the husband in that case, BSPL, at the date of the AM hearing. Instead, the court used the date of the IJ to value the company. The court found at [51] that (a) the husband caused BSPL to incur S$572,653.37 in legal fees; (b) the husband caused BSPL to dispose of substantial property in April 2012, degrading its financial position; and (c) there was a not negligible possibility that the husband might have managed BSPL's finances to the wife's detriment since she was removed as a director of that company and there was evidence to show a substantial deterioration of BSPL's finances in the years after. Further, the husband also alleged that the wife had diverted corporate opportunities from BSPL. In those circumstances, it was fair to depart from the default position "so as to arrive at a value of BSPL *before* the alleged dissipation of BSPL's assets by the Husband and the alleged diversion of BSPL's business by the Wife" (emphasis in original) (*TDT v TDS* at [51]).

40 Similarly, in *Wan Lai Cheng v Quek Seow Kee* [2012] 4 SLR 405 ("*Wan Lai Cheng*"), the Court of Appeal valued matrimonial properties on a date prior to the AM hearing. The court found that before the AM hearing, the husband had doubled overdraft expenditure liabilities for his sole benefit and not the family's benefit (*Wan Lai Cheng* at [71]). The court also held that neither spouse should be allowed to dispose of or incur any liability on the assets to the detriment of the other spouse (*Wan Lai Cheng* at [67]).

41 On the other hand, in *BPC v BPB*, the Court of Appeal found that there was no reason to depart from the default position of valuing the matrimonial

assets at the date of the AM hearing. The operative date submitted by the husband was not tied to any legally significant event in the divorce proceedings (*BPC v BPB* at [55]). The husband benefited from the wife's indirect contributions before the IJ date, when she was caring for their children not only *qua* mother but also *qua* spouse. As such, so long as the share and share options in the husband's fund had been acquired before the date of IJ, there was no reason to prevent the wife from enjoying its increase in value, even though such an increase only came after the IJ date (*BPC v BPB* at [56]–[57]).

42 Reading the above cases together, it can be gleaned that one reason to depart from the default operative date for valuation of assets is that there is evidence of dissipation of assets by one party.

Cogent reasons for departure from the default position in the present case

43 The parties structured their submissions around the reasons that the Judge provided for departing from the default position in relation to the operative date for valuation: (a) the time lapse of seven years from the date of IJ; (b) the fact of the HC Suit, where the Husband falsely maintained that he was not the beneficial owner of the Companies, and concealed his true shareholding in the Companies; (c) the Husband's lack of full and frank disclosure in relation to certain related party transactions; and (d) the dissipation of assets from the Companies (Judgment at [38]).

44 The Husband's main arguments on why the Judge erred are that (a) he had not taken any action to undermine a proper valuation of the Companies, such as by improperly or wrongfully dissipating their assets; and (b) the Companies' significant reduction in value between the Wife's valuation date and his valuation date was due to the loss of its major client, [S]. The Husband attempted to support his case by way of the new evidence in SUM 44. In

particular, he exhibited (a) emails between himself and the Companies' major client, [S], which allegedly showed that he had lost [S] as a client sometime after the COVID-19 pandemic; and (b) a table (with supporting documents) showing transactions made using Company [B]'s Account 9546; and (c) a table (with supporting documents) showing transactions made using Company [B]'s Account 9622. The two tables were intended to show that the Husband had been making withdrawals from Company [B]'s bank accounts for legitimate reasons, such as to pay tax to IRAS and to pay legal fees.

45 As it turns out, we are especially concerned with how the two tables showed withdrawals from Company [B]'s bank accounts that were used to pay legal fees for the Husband's family members and himself, not just for the representation of the company itself in the HC Suit. The tables show that Company [B] paid a substantial amount in legal fees for the Husband and his family members in the HC Suit: the legal fees for the Husband, his nephew, Company [A], Company [B] and Company [D] were S$694,424.31; and [K]'s legal fees were S$55,000. We consider this to be an improper use and dissipation of the Companies' funds. It was not explained why funds from Company [B] were being used to pay for the Husband's legal fees when it was an action involving his personal interests. Furthermore, there was no satisfactory explanation as to why Company [A], Company [B] and Company [D] were incurring legal fees when they were only nominal parties.

46 We are also troubled by the tables which reflected that dividends were paid to the Husband's family members, and it is not clear whether these dividends were accounted for as the Husband's assets in the proportion of his ownership of the shares.

47 During the hearing, we pointed out our concerns to the Husband's counsel. In relation to the legal fees, counsel for the Husband was unable to explain why Company [B]'s funds were being used to pay the legal expenses of the Husband's family members. We understand the Husband's argument to be that he had not dissipated the moneys as he was not frittering them away, hiding or spending the moneys for some other illegitimate reason. As for the payment of dividends, counsel for the Husband made the argument that dividends were paid out to [K] and [Y] in order to repay them for having allegedly contributed to the initial capital for the Companies. However, this went against the findings in the HC Suit and its appeal that the Husband was in fact the beneficial owner of these Companies. The Husband's counsel was not able to point to any supporting document or explanation for why dividends were being repaid to the [K] and [Y], and how much they were actually owed.

48 The further documentary evidence in SUM 44 also showed how payments were being made out of Company [B]'s bank accounts that could not be explained or accounted for. The Husband could not explain why these payments were made nor account for his share of the dividends before the court.

49 Based on the foregoing, we find that the Judge did not err in departing from the default position and using a date closer to the IJ for the valuation of the Husband's shares in the Companies. In explaining our conclusion, we make three observations. First, the Court of Appeal in *TNL v TNK* [2017] 1 SLR 609 ("*TNL v TNK*") at [24] has explained that (see also *UZN v UZM* [2021] 1 SLR 426 ("*UZN v UZM*") at [62]–[63]):

> … [when] one spouse expends a substantial sum, this sum must be returned to the asset pool if the other spouse is considered to have at least a putative interest in it and has not agreed, either expressly or impliedly, to the expenditure either before it was incurred or at any subsequent time. *Furthermore, this remains the case regardless of whether: (a) the expenditure*

> *was a deliberate attempt to dissipate matrimonial assets; or (b) the expenditure was for the benefit of the children or other relatives. …*
>
> [emphasis added]

This has been referred to as the "*TNL dicta*". In the present case, although the legal fees and dividends were paid out for the benefit of the Husband's relatives, this did not detract from the fact that this constituted a dissipation of assets as the Wife has a putative interest in these sums and had not agreed to such an expenditure.

50 Second, to counter the effects of dissipation, we note that one approach could have been to add the moneys dissipated back into the matrimonial pool, whilst using the valuation of the shares as at the default operative date, *ie*, the date of the AM hearing. However, on the facts of this case, it was not possible to arrive at an appropriate figure as not all of the payments of dividends and legal fees were accounted for. Further, counsel for the Husband had not suggested this approach, and he was not prepared to account for these various payments at the hearing. Considering the existence of unexplained payments and the lack of clarity as to the amount and purpose, this approach was not suitable.

51 Third, in relation to the Husband's evidence that the Companies had lost a major client, [S], we could not conclude from the emails exhibited that the contracts had indeed been terminated with [S] and its other related entities. While the emails do suggest that there was a termination of services, this was only with respect to one arm of [S]'s business. The Husband is an experienced accountant and could have given a detailed explanation as to what businesses were terminated and how these had affected the Companies' revenue, instead of relying on vague assertions. In this regard, we note that the Husband was also

not forthright on this issue. On 2 April 2024, when the Wife had asked him for details on who the Companies were transacting with, he merely claimed that there was "no contract".

52 In any case, we had our doubts about whether the value of the Companies could decrease by almost half just by losing [S] as a client (from S$7,865,585 to S$3,786,382.50 over five years), and the emails did not adequately explain the drop in the Companies' value and other aspects of the Companies' accounts. For instance, the Husband's valuation report shows that there was a significant increase in staff costs and other operating expenses from 2018; it appears that as the Companies' revenue *decreased*, the costs and expenses of the Companies inexplicably *increased*.

53 For these reasons, we are of the view that the Judge had not erred in departing from the default position for the valuation of the Husband's shares in the Companies.

54 For completeness, we touch on other apparent reasons possibly taken into account by the Judge for departing from the default position. First, the time lapse of seven years from the date of IJ to the date of the AM hearing is not in itself a sufficient reason to depart from the starting position. We do not think that the Judge relied on this as a reason to depart from the default position, but had mentioned this to contextualise the long-drawn out proceedings which included the HC Suit.

55 Second, while the Husband had earlier attempted to exclude his shares in the Companies from the matrimonial pool, the HC Suit and the corresponding appeal concluded that the Husband had a very large beneficial ownership of the

Companies, and thus any attempts to exclude these assets have already been nullified by the HC Suit.

56 Third, it is not necessary for us to make any specific finding on the issue of whether the Husband failed to make full and frank disclosure in relation to any related party transactions between one alleged "Party X" and Companies [A] and [B] as argued by the Wife. In brief, the Wife points to the possibility of there being related party transactions with an alleged Party X, to whom Company [B] had paid "freight and handling charges", as there were unexplained payments or dissipation from Company [B]'s Account 9546 and Account 9622. However, the Husband submits that, based on financial statements from FY2004 to FY2018, Company [B]'s payables appear to perfectly match Company [A]'s trade receivables, as Company [A] would pay for freight and handling charges on Company [B]'s behalf. During the hearing, the Husband's counsel was not able to adequately explain and itemise why certain withdrawals were made, to whom these were paid, and whether these were indeed paid by Company [B] to Company [A] for freight and handling charges. Nevertheless, a finding one way or the other does not affect our decision on the Valuation Issue as there were already dissipations and drops in values that could not be sufficiently explained.

57 Finally, we address the Husband's contention that should he be unsuccessful in appealing this issue, the valuation of Company [C] should be nil as it has been dormant. We reject this contention. The Husband's submission that Company [C] is dormant and "has not been conducting any business since 2022" is based on a bare assertion in his affidavit. In contrast, the Wife's submission that Company [C] provided internal management services is based on her expert's valuation report, which explains how Company [C] earns its revenue. Her expert's position was based on Company [C]'s financial data from

FY2013 to FY2018, which appears to have been disclosed to her. In our view, the Wife's position is more credible than the Husband's and we find that Company [C] ought to be valued and included in the pool of matrimonial assets.

58 Considering the evidence below and the new evidence admitted in SUM 44, we affirm the Judge's finding that there were cogent reasons to depart from the default position of valuing the Husband's shares in the Companies as at the date of the AM hearing. We use the Wife's valuation of S$7,865,585 for the Companies dated 31 December 2018, being closer to the IJ date of 9 January 2018, and make no further adjustments to this figure. Accordingly, we dismiss the appeal on this issue.

The Adverse Inference Issue

59 We allow the appeal in respect of the Adverse Inference issue. We find no reason to draw an adverse inference against the Husband and to accord an uplift to the Wife's share of the matrimonial pool.

Dissipation of the Companies' assets

60 An adverse inference may only be drawn where the following requirements are satisfied (*WRX v WRY* at [38]):

> (a) First, there is a substratum of evidence that establishes a *prima facie* case against the person against whom the inference is to be drawn. There must be some evidence suggesting that the person has sought to conceal or deplete assets which should be included in the matrimonial pool (*BOR v BOS* [2018] SGCA 78 at [75]); and

(b) Second, that person had some particular access to the information he is said to be hiding (*Koh Bee Choo v Choo Chai Huah* [2007] SGCA 21 at [28]).

61 The adverse inference drawn is that the non-disclosing party has more assets that are not disclosed before the court, such that what is disclosed does not fully reflect the true extent of the material gains of the marriage which the court is to divide. The underlying rationale for drawing an adverse inference and giving effect to it is that there is a concealment of matrimonial assets which should be included for a fair division of assets under s 112 of the Charter (*UZN v UZM* at [61]).

62 Drawing an adverse inference against the non-disclosing party is not to punish him or her for having concealed his or her assets, but to account for the fact that these assets were not placed before the court for a division of what should be properly regarded as matrimonial assets. In our view, it is not necessary for us to accord any uplift to the Wife's share of the pool on account of the Husband's dissipation of the Companies' assets, as this was already addressed by adopting a valuation date which preceded the period when the acts of dissipation had taken place.

63 We also observe that the Wife's submissions seem to suggest that regardless of the effect of the outcome of the HC Suit, the Husband's initial attempt to dissipate his assets by transferring his shares in the Companies should be considered negatively, notwithstanding that his true shareholding and the benefits thereof have been included in the matrimonial pool. This argument appears to focus on penalising the Husband for his intention and attempt to exclude his assets from division. As these assets are already included in the pool

by virtue of the use of an earlier operative date for valuation, no further adjustments ought to be made.

The Husband's Australian superannuation fund and Singapore bank accounts

64 The Husband contends that the Judge had not fully appreciated the documentary evidence he had tendered before the court and had not given him sufficient credit for his efforts to obtain documents and information relating to the Australian superannuation fund and his Singapore bank accounts. Instead, the Judge drew an adverse inference against him in respect of the fund and bank accounts.

65 The Husband submits that he previously explained on affidavit that he had made requests to the Australian authorities for a statement of his Australian superannuation fund at least twice but received no response. The Husband explains that much like the CPF regime in Singapore, he was able to apply for early access to his superannuation fund as he had stopped work in Australia and moved to Singapore in 1995. He submits, based on new evidence that was admitted by way of SUM 38, that it was not unreasonable for his latest superannuation fund statements not to be readily available, contrary to the Judge's view that he could have made greater efforts to contact the relevant Australian authorities to obtain information and documents about the superannuation fund (Judgment at [33]).

66 We find that the new evidence, as described below, supports the Husband's case that his superannuation fund was closed after he left his employment in Australia to move to Singapore in 1995:

(a) A letter dated 10 August 1994 from the Husband's former employer in Australia narrated the circumstances of his departure from

the company, stating that the Husband "has decided to leave [the] company, move his family to Singapore and to seek advancement of his career there".

(b) A statutory declaration dated 1 August 1994 shows that the Husband had declared that he was "leaving [Australia] to reside overseas for an indefinite period".

(c) A letter from the Fund Administrator of the Husband's superannuation fund dated 29 August 1994, shows that his superannuation benefit payment was A$24,255.03, and that a cheque was enclosed to him for that amount. A Statement of Termination Payment and 1995 Group Certificate also suggest that he was paid out the benefits in his superannuation fund on terminating that account.

(d) Screenshots of the Australian Taxation Office ("ATO") website explain that "temporary residents" of Australia may claim their accumulated superannuation funds less tax on departure from Australia and after their visa has expired, and that the ATO does not display account information online for accounts closed before 1 July 2018.

67 We are thus of the view that it is unlikely for there to have been any further withdrawals or accruals under the Husband's superannuation fund once he had left Australia. The evidence shows that the account was closed and the moneys in the Husband's superannuation fund were paid out to him by cheque upon leaving Australia permanently.

68 We also observe that the Judge's suggestion (at [33] of the Judgment) that the Husband should call or email the Australian authorities directly to obtain information and documents about his superannuation fund does not give

sufficient credit to the Husband's efforts to contact the ATO. The Husband had given evidence that he had requested for a statement of his superannuation fund from the ATO at least twice but did not receive a response. We note that the screenshots he exhibited show that he was successful in submitting a form to the ATO on at least one occasion.

69 The Wife's core submission is that the Husband had been uncooperative in obtaining and disclosing the requested documents. However, based on the new evidence as well as the Husband's consistent case that he had closed this account and withdrew the funds to pay for the matrimonial flat, it does not appear that the Husband has moneys which remain in the superannuation fund. We therefore accept his position that there is no concealment of assets in this regard.

70 The Husband's Singapore bank accounts comprise an Oversea-Chinese Banking Corporation ("OCBC") account ending in 4001 ("OCBC Account"), a Standard Chartered Bank account ending in 6286 ("SCB Account"), a Citibank account ending in 4007 ("Citibank Account"), and a United Overseas Bank ("UOB") Bank account ending in 4113 ("UOB Account"). He submits that he did not just make bare assertions that these accounts were either inactive or had negligible balances. He submits that these four accounts were all "credit line" accounts and not deposit accounts, which is why they had no money in them. The Husband also submits that the Judge had not referred to or assessed the impact of his bank statements, which states that the SCB Account and Citibank Account were credit lines, and his explanations on affidavit that his accounts had been closed after being dormant for an extended period, which would not have supported the Judge's finding that the Husband had wilfully refused to disclose the status of these bank accounts.

71 Considering the documentary evidence before us, we are of the view that the Singapore bank accounts are likely to be credit line accounts. The bank statements for the SCB Account and the Citibank Account reflect that these are credit lines. The consolidated statement for the SCB Account shows it is for "Personal Credit", charging interest at an effective rate of 18.88% per annum, with an available credit limit of S$15,507.00 and a negligible statement balance of S$0.04. These figures are repeated in the account balance enquiry in respect of the SCB Account dated 13 May 2019. The Statement of Account for the Citibank Account describes the account as a "Citibank Ready Credit" account, with a credit limit of S$13,100.00 and an outstanding balance to be paid of S$2.82. The statements by themselves show that these are credit lines and not debit accounts as submitted by the Wife.

72 As for the OCBC and UOB Accounts, the Husband could not locate and produce any documentary evidence to prove that these were credit lines. However, that did not appear to be caused by a lack of effort on the Husband's part. The Husband had exhibited an Account Information Update/Request Form that he had submitted to OCBC on 13 May 2019, requesting that they mail him a letter to confirm the closure of this account. He explained that the bank staff had told him that the account does not show up in their computer system, indicating that it was closed more than ten years ago. This also meant that there was no guarantee he could obtain documentary evidence of the account closure as the bank does not keep account records for more than seven years. However, he did not state when he went to the bank or which branch he visited to obtain this information. In relation to the UOB Account, he explained that he could not get documents confirming the status of the UOB Account when he visited the bank on 13 May 2019, as the account number no longer shows up in their computer system, which the bank staff said indicated that the account was closed more than ten years ago due to inactivity.

73 Nevertheless, the Husband's case is supported by the evidence that he was paying off credit card loans in relation to the SCB Account, the OCBC Account and the UOB Account. This was in response to the Wife's interrogatories concerning withdrawals from the Husband's Alliance Bank Savings Account. He explained that he had taken a loan from Alliance Bank to pay off outstanding bank loans and credit card debts in Singapore which had very high interest rates, and exhibited a repayment table which showed that his bank debts (including those for the SCB Account, the OCBC Account and the UOB Account) had decreased over a period from 26 March 2006 to 27 December 2006. The table mentions the same bank account numbers for the SCB, OCBC and UOB Accounts in question. We therefore accept that these accounts are credit lines.

74 We take the view that the totality of the evidence points to the Singapore Bank Accounts being credit lines and not debit accounts. This is especially supported by the bank statements and repayment table above. We also do not think that the Husband's explanations for why he could not obtain documentation from the banks as regards the OCBC and UOB accounts are unreasonable, given the length of time since the Husband had ceased to reside in Singapore. In the round, we think that the facts do not suggest that the Husband was wilfully trying to conceal any moneys in his Singapore bank accounts.

75 Thus, we find no reason to draw an adverse inference against the Husband. We allow the appeal on this issue; there should not be a further 5% uplift to the Wife's share as reflected in the average ratio reached by the Judge.

The Loan Issue

76 At the hearing below, the Husband adduced evidence that he had taken a loan from Company [A] to purchase Property [F]. These were (a) a "Circular Resolution by Directors" dated 30 April 2015, which states that Company [A] agreed to extend a loan of up to RM5,000,000 to the Husband without interest; (b) a payment voucher dated 3 April 2017, which states that a payment of RM1,650,002.12 was disbursed to the Husband (comprising a payment of RM1,650,000 as a loan to the Husband and RM2.12 in bank charges); (c) two invoices and a remittance application form dated 3 April 2017 evidencing the transfer of money. However, the Judge did not accept this as sufficient evidence of a loan and took the view that the Husband should have provided Company [A]'s financial statements to prove the loan (Judgment at [45]). The Judge found that the alleged loan was not proven and hence it was not included as part of the Husband's liabilities.

77 We allow the appeal on this issue. As the Husband argues, Company [A]'s financial statements were already in evidence before the Judge. Company [A]'s financial statements ("FS") for FY2011 to FY2018 were exhibited in the Wife's fourth ancillary affidavit. There is therefore evidence that proves the existence of the Husband's liability to Company [A] in respect of this loan.

78 In Company [A]'s FY2017 FS, the "Statement of Financial Position at 31 December 2017", reflects RM1,665,000 (*ie,* the loan amount for Property [F]) as an amount owing by a director. This is further explained at Note 10 of the FY2017 FS, which states that "[t]he amount owing by a director is unsecured, interest-free and repayable on demand". Company [A]'s "Statement of Changes in Equity" in the FY2017 FS also shows that dividends of RM3,180,000 were declared and drawn down from the company's retained

profits in 2016 and no dividends were declared in 2017, which is confirmed by Note 19 of the FY2017 FS. Company [A]'s FY2018 FS also confirms that there was an amount owing by a director of RM1,665,000 in 2017, which increased to RM1,974,834 in 2018. It also shows that no dividends were declared in 2017, but dividends of RM999,000 were declared in 2018.

79 It bears noting that Company [A]'s FY2017 and FY2018 FS were audited by an independent external accountant who concluded that these financial statements "give a true and fair view of the financial position of the Company" as at 31 December 2017 and 31 December 2018, based on approved standards on auditing in Malaysia and International Standards on Auditing. The accountant's mandate was to "obtain reasonable assurance about whether the financial statements of the Company as a whole are free from material misstatement, whether due to fraud or error". We therefore find that there is no reason to doubt the designation of the RM1,650,000 paid to the Husband as a loan from the company.

80 As for the Wife's allegation that the Husband had treated Company [A]'s funds as his own such that the loan was not genuine, the fact that there were no dividends in 2017 shows that there was nothing paid out to the Husband to offset the loan he took from Company [A]. Even if the Husband had the full benefit of the 2018 dividends (being 92.33% of RM999,000, according to his beneficial interest in Company [A] as declared in the HC Suit), this is insufficient to cover the loan amount of RM1,650,000. We therefore find that there is nothing to support the Wife's contention that the Husband had "withdrawn" moneys from Company [A] by way of director's loans and later offset them against dividends declared in his favour.

81 The Husband also refers to Company [A]'s management accounts, which recorded a RM1,650,000 loan made to the Husband on 3 April 2017, and a further loan of RM15,000 made on 26 December 2017. These management accounts were exhibited in the Husband's fourth ancillary affidavit as a record of the loans he had taken from the Companies. The total loan taken by the Husband from Company [A] in 2017 matches the "[a]mount owing by a director" as reflected in Company [A]'s FY2017 FS. For completeness, the amount owing by a director reflected in Company [A]'s FY2018 FS of RM1,974,834 is likewise reflected in Company [A]'s management accounts as a total loan of RM1,974,834.20. The management accounts, read together with its financial statements, support the Husband's claim.

82 The Wife argues that the Husband should not be allowed to rely on Company [A]'s FY2017 financial statements and management accounts, as these were found in her fourth ancillary matters affidavit and not in the Husband's affidavits. However, her argument, that it would be "improper and prejudicial for [the Husband] to rely on materials that he himself chose not to place before the Court", is misconceived. The Husband also disclosed Company [A]'s management accounts in his own affidavit. In any case, these documents are not new evidence, and in our view, there is no reason for the court to disregard this evidence simply because it was in the Wife's affidavit and not the Husband's.

83 We therefore allow the appeal on the Loan Issue; the Husband's loan of RM1,650,000 (equivalent to S$544,702.03 as calculated by the Judge) should be included as a liability and ultimately deducted from the matrimonial pool.

The Inclusion Issue

The moneys the Husband used to purchase Property [F]

84 The Husband submits that the Judge erred in including the moneys used to purchase Property [F] in the matrimonial pool as there is no evidence to show that the Husband knew of impending divorce proceedings when he purchased Property [F] for his son.

85 In our view, the Judge was not wrong to include this sum in the pool as it is clear that the sum was expended when divorce proceedings were imminent, given that Property [F] was purchased a month before the divorce proceedings were filed (see [49] above citing *TNL v TNK* at [24]).

The funds in Account 3612

86 With respect to the funds in Account 3612, the Husband's case is that those funds should be excluded from the matrimonial pool as he is not entitled to those moneys. He claims that the moneys in Account 3612 are part of a trust fund for the benefit of his late father's grandchildren and for the maintenance of the ancestral home. We reject this submission. There is no evidence to support the Husband's case – while he adduced a letter purportedly showing his late father's intended distribution of moneys, there is nothing to show that the moneys in Account 3612 are part of any trust for those purposes. The Husband's case also does not square with the fact that he had withdrawn sums from that account for his personal use. Hence, we do not think that the Husband has shown that Account 3612 should be excluded from the matrimonial pool.

The RM413,000 (S$136,290) in Account 8336

87 The Husband submits that he is not the intended beneficiary of the funds in Account 8336 as the account is a fixed deposit account which contains funds worth RM1,000,000 pledged to secure an overdraft facility from the bank. He explains that the funds came from the interim dividends issued by Company [A] to [Y], his eldest brother and himself in 2009. In this regard, the Husband adduced evidence to show that Company [A] indeed pledged the funds in Account 8336 to the Public Bank.

88 In our view, the fact that those funds were pledged does not in itself affect the Husband's entitlement to his share of the interim dividends issued in 2009. As those dividends were acquired during the marriage, they ought to be included in the matrimonial pool. Thus, we dismiss the Husband's appeal in relation to this issue.

The Husband's contribution to Property [G]

89 Property [G] was purchased by the Husband and [Y]. The Wife did not stake a claim in Property [G]. Instead, she argued that funds used by the Husband to acquire the property and to renovate it should be included in the pool of matrimonial assets. The Judge found that the Husband's total contribution to be included in the pool should be RM309,143.55 (RM 217,554.05 + RM91,589.50) which is roughly S$101,708.30 based on an approximate exchange rate used by parties, *ie,* RM1=S$0.29. The Husband had admitted to using RM91,589.50 from his bank account to renovate the property.

90 On appeal, the Husband only disputes the inclusion of RM91,589.50 in the pool. He argues that this sum comes from dividends declared by Company [A] in 2013 which were attributable to the Husband, his brother and [Y].

However, the Husband and his brother assigned their dividends to [Y] which were paid in 2015. [Y] had used RM97,509.08 from the dividends to help the Husband to pay for renovation of the property. The RM91,589.50 was part of the RM97,509.80 and should not be included in the pool as the money came from [Y]. We do not agree with the Husband's position. [Y] was not a beneficial shareholder of Company [A]. The Husband owned 92.33% and the brother owned the remainder at the material time. The RM91,589.50 which allegedly came from [Y] actually came from the Husband's dividends. Therefore, the Judge did not err in including this sum in the pool.

The dividends paid by Company [A] in 2017 and the dividends paid by Company [A] and Company [B] in 2018

91 The Judge found that the sum of RM292,000 (S$96,302) ought to be returned to the matrimonial pool, being the unaccounted portion of the dividends declared in *2017* by Company [A]. The Husband argues that RM220,000 out of the RM292,000 has been accounted for. The Wife's submissions below did not refer to any supporting evidence on how the sum of RM292,000 was derived. We accept the Husband's evidence in this regard, and accordingly only RM72,000 (equivalent to S$23,746) is to be returned the matrimonial pool.

92 The Husband submits that the dividends paid by Company [A] and Company [B] in *2018* should not be included in the matrimonial pool as they were not disbursed to him. We agree with the Judge that they ought to be returned to the matrimonial pool. The benefit of the shares belongs to the beneficial owner of the shares (*CLS v CLT* [2022] 2 SLR 1043 at [32]). Thus, even though the dividends were not disbursed to the Husband, he is the beneficial owner of the shares (92.33% beneficial owner of Company [A] and 100% beneficial owner of Company [B]) and the benefit of those shares belong

to him. We do not see any error in the Judge's finding that the sum of S$304,200 (92.33% of RM999,000 declared by Company [A] in 2018) and S$297,992 (100% of US$218,341 declared by Company [B] in 2018) ought to be returned to the pool.

The Indirect Contributions Issue

93 The Judge found the parties' indirect contributions ratio to be 80:20 in favour of the Wife. The Husband contends that he should be awarded at least 30% for his indirect contributions. He submits that the Wife's indirect contributions should be reduced as they were separated for the majority of the duration of the marriage, for about 17 years out of a 25-year marriage. He cites this court's holding in *WOS v WOT* [2024] 1 SLR 437 ("*WOS v WOT*") at [61]:

> The extent of spouses' indirect contributions to the marriage will generally be reduced after separation. The extent of these post-separation contributions will vary from case to case, and must be properly assessed on the facts of each case.

94 We emphasise that the holding above in *WOS v WOT* must be construed in its proper context. That case concerned a single-income marriage of 20 years. The spouses had one child and lived apart for 10 years. The structured approach in *ANJ v ANK* did *not* apply to that marriage, and hence the case did *not* involve the steps in the approach of assigning direct and indirect contribution ratios to the parties; the Court of Appeal in *TNL v TNK* at [46] had held that "the *ANJ* approach should *not* be applied to Single-Income Marriages" (emphasis in original). The Court of Appeal also accepted that in "*long* Single-Income Marriages, the precedent cases show that our courts tend towards an equal division of the matrimonial assets" (emphasis in original) (*TNL v TNK* at [48]). In *WOS v WOT*, the wife who was the homemaker submitted that equal division ought to apply.

95 It was in that context that the court in *WOS v WOT* held that the indirect contributions of spouses who are separated for a large part of the marriage may not be as substantial as those maintaining a shared home and caring for the family in the *factual context of long single-income marriages to which equal division was envisaged to apply* (see *WOS v WOT* at [57]). In the three cases cited as precedents of single-income marriages in *TNL v TNK* (at [49]–[51]), the marriages were between 26 years and 30 years in length and involved parties with more than one child and who lived together for nearly three decades until near the commencement of divorce proceedings. The facts in *WOS v WOT* did not fit into this category of case precedents to warrant the same ratio of division. Hence, the court's holding in *WOS v WOT* at [61] does *not* stand for the proposition that the indirect contributions of spouses during the period of separation should be discounted simply because parties had lived apart for a large part of the marriage.

96 *WOS v WOT* did *not* involve a dual-income marriage to which the structured approach in *ANJ v ANK* applied. In the present case, the structured approach applies. The Wife brought up three children while working full-time and was the children's primary caregiver for 17 years. The Husband did not live with the Wife and children and was not involved in caring for the children. The Wife also received no financial support from the Husband in the first four years of the parties' separation, when the children were in their formative years at the young ages of four, six and seven. On the present facts, we do not think the Judge erred in ascribing an indirect contribution ratio of 80:20 in the Wife's favour. We therefore dismiss the Husband's appeal on the Indirect Contributions Issue.

Conclusion

97 For the reasons above, we allow the Husband's appeal in part. To recapitulate, the loan sum of S$544,702.03 should be deducted from the matrimonial pool and the unaccounted part of the dividends by Company [A] in 2017 should be S$23,746 instead of S$96,302. The total pool of matrimonial assets is as follows:

Subtotal for Husband's assets	**Subtotal for Wife's assets**	**Subtotal for joint assets**
S$9,994,338.40 – S$544,702.03– S$96,302 + S$23,746 = S$9,377,080.37	S$1,470,962.93	S$0
Total: S$10,848,043.30		

98 The parties' direct contributions ratio is 86:14 in favour of the Husband. The indirect contributions ratio remains at 80:20 in favour of the Wife. The resulting average ratio is 53:47 in favour of the Husband. As we also allow the appeal in relation to the Adverse Inference Issue, there is no further uplift or adjustment to this ratio. The Husband is entitled to 53% and the Wife is entitled to 47% of the matrimonial pool valued at S$10,848,043.30.

99 As for the costs of the appeal, we order the Husband to pay the Wife S$30,000 (all-in) for AD 17 as he has failed on the Valuation Issue which formed the main dispute between the parties and costs of S$7,000 (all-in) for SUM 44. In our view, the evidence sought to be adduced in SUM 44 was detailed, but the work done on it overlaps with the merits of the main appeal.

Hri Kumar Nair
Justice of the Court of Appeal

Woo Bih Li
Judge of the Appellate Division

Debbie Ong Siew Ling
Judge of the Appellate Division

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