IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2026] SGHCF 11

District Court Appeal No 108 of 2025

Between

XTR

… *Appellant*

And

XTQ

… *Respondent*

GROUNDS OF DECISION

[Family Law — Judicial separation]
[Family Law — Grounds for divorce — Behaviour]

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XTR
v
XTQ

[2026] SGHCF 11

General Division of the High Court (Family Division) — District Court Appeal No 108 of 2025
Mavis Chionh Sze Chyi J
4 February 2026, 23 April 2026

5 May 2026

Mavis Chionh Sze Chyi J:

Introduction

1 The appellant ("Husband") appealed against the decision of the learned District Judge Eugene Tay ("DJ Tay") to grant a judgment of judicial separation on the respondent's ("Wife's") application in FC/D 1949/2024. DJ Tay's grounds of decision are set out in *XTQ v XTR* [2025] SGFC 116 ("GD"). Having considered parties' written and oral submissions, I dismissed the Husband's appeal. The reasons for my decision are explained below.

2 In the interests of clarity, I note at the outset that the version of the Women's Charter 1961 (2020 Rev Ed) ("WC") to be applied in this case is the version which was in force at the time when the Wife filed her application for judicial separation (*ie*, 29 April 2024). The provision which deals with the grounds on which judicial separation may be applied for is s 101, which – as

will be explained below – references the grounds for divorce set out in s 95 of the WC, with the necessary modifications. Both ss 95 and 101 were amended pursuant to ss 29 and 32 of the Women's Charter (Amendment) Act 2022 (No. 3 of 2022). However, as these amendments only took effect on 1 July 2024, *per* the Women's Charter (Amendment) Act 2022 (Commencement) Notification 2024 (No. S 520), they will not be considered in the present case.

Facts

Background of the parties

3 I first summarise the factual background to this case.

4 The parties were married on 25 January 2004 in India.[1] Both parties were Indian citizens at the time of their marriage. There are no children to the marriage. A central feature of this case is that the parties were based in different countries for a substantial part of their marriage.[2] When they were married in 2004, the Wife was based in Singapore; the Husband, in Malaysia. The Husband relocated to Singapore in 2005; and in 2008, both parties renounced their Indian citizenship and became Singapore citizens.[3]

5 In early 2014, the Husband relocated to Japan for work and largely remained there until end-2022, when he relocated to the US.[4] During the period

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1 Certificate of Marriage (Record of Appeal ("ROA") (Vol II) at p 19).

2 Wife's Affidavit of Evidence-in-Chief dated 4 March 2025 ("Wife's AEIC") at para 28 (ROA (Vol III) at pp 14–25).

3 Wife's AEIC at paras 12–19 (ROA (Vol III) at pp 11–12); Husband's Affidavit of Evidence-in-Chief dated 4 March 2025 ("Husband's AEIC") at para 18 (ROA (Vol III) at p 268).

4 Wife's AEIC at paras 25–28 (ROA (Vol III) at pp 13–25); Husband's AEIC at paras 19–23 (ROA (Vol III) at pp 269–271).

when the Husband was based in Japan, the Wife largely remained in Singapore, apart from relatively brief periods when she either visited the Husband in Japan or was posted overseas for her work.

6 It was not disputed that in June 2018, both parties had agreed to a three-month trial separation ("Trial Separation").[5] In the trial below, parties disagreed on whether they had reconciled after the Trial Separation after the said three months. In this connection, while it was not disputed that they did sell their matrimonial home ("Matrimonial Home") in or around March 2019,[6] parties disagreed on the reason for this sale.

Procedural history

7 On 29 April 2024, the Wife filed for judicial separation based on the Husband's unreasonable behaviour leading to an irretrievable breakdown of the marriage.[7] The Husband agreed that the marriage had broken down irretrievably but argued that this was due to the Wife's cruelty and abandonment.[8] Following a one-day trial, a judgment of judicial separation was granted by DJ Tay on 28 August 2025, on the basis that the Husband had behaved in such a way that the Wife could not reasonably be expected to live with the Husband.[9] DJ Tay also ordered costs of S$8,000 (all-in) to be paid by the Husband to the Wife.[10] The

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5 Husband's email to the Wife dated 11 June 2018 regarding the Trial Separation, annexed to the Husband's AEIC (ROA (Vol III) at pp 335–336); Notes of Evidence ("NEs") dated 14 May 2025 at p 21 lines 21–27 (ROA (Vol III) at p 871).

6 Wife's AEIC at paras 49–50 (ROA (Vol III) at pp 30–31).

7 Writ for Judicial Separation dated 29 April 2024 (ROA (Vol II) at pp 6–7); Wife's Opening Statement dated 9 April 2025 at para 3 (ROA (Vol IV) at p 1).

8 Husband's Opening Statement dated 10 April 2025 at para 15 (ROA (Vol IV) at p 39).

9 Judgment of Judicial Separation dated 28 August 2025 (ROA (Vol I) at pp 3–4).

10 GD at [7] (ROA (Vol I) at p 8).

Husband filed a Notice of Appeal on 11 September 2025 against the whole of DJ Tay's decision.[11]

8 Prior to the Wife's application for a judgment of judicial separation, the Husband had commenced divorce proceedings in India on 5 August 2023,[12] on the grounds of the Wife's alleged cruelty and abandonment.[13] The Wife contended that she was not informed of the Indian divorce proceedings prior to or at the time the Husband commenced those proceedings. According to the Wife, she received a text message from the Husband on 30 October 2023 informing her that his lawyers had filed "separation papers" in India and that there was a hearing scheduled in India on 6 December 2023. When she reached out to him to seek clarifications on this text message, he did not reply.[14] She then "assumed that he had not moved forward with the matter", and she "only discovered the existence" of the Indian divorce proceedings on 11 June 2024, when she received documents related to those proceedings.[15] The Husband, for his part, claimed that he had *verbally* informed the Wife of the Indian divorce proceedings at or around the time that he commenced those proceedings, but he conceded that there was no evidence of his having done so.[16]

9 On 9 July 2024, the Husband filed an application in Singapore to stay the judicial separation proceedings on the ground of *forum non conveniens*. This

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11 Husband's Notice of Appeal filed on 11 September 2025 (ROA (Vol II) at pp 3–4).

12 NEs dated 14 May 2025 at p 114 lines 29–31 (ROA (Vol III) at p 964).

13 Husband's Opening Statement dated 10 April 2025 at para 15 (ROA (Vol IV) at p 39).

14 Wife's AEIC at para 160(ee) (ROA (Vol III) at pp 62–63).

15 Respondent's Case ("RC") at para 8; see also Wife's AEIC at para 160(ff) (ROA (Vol III) at p 63).

16 NEs dated 14 May 2025 at p 115 lines 4–12 (ROA (Vol III) at p 965).

application was dismissed on 18 November 2024.[17] In the course of the trial before DJ Tay, the Husband testified that as of 14 May 2025, parties had completed marital counselling for the purposes of the Indian divorce proceedings, and that a meeting was due to be held on 1 August 2025 in India for additional evidence to be given, and for the Wife to state her case.[18] Apart from this, there was no further information about the status of the Indian divorce proceedings in the record of appeal.

Decision below

10 I next summarise DJ Tay's decision at [11]–[22] below.

Applicable law

11 DJ Tay began by observing that the main issue before him was whether the Wife had proven "on [a] balance of probabilities" that the Husband had behaved in such a way that she could not reasonably be expected to live with him: GD at [15].[19]

12 However, having held that the Wife needed to prove the stated ground for judicial separation on a balance of probabilities, DJ Tay held that a "less rigorous and stringent approach" should be adopted by the court when "viewing alleged unreasonable behaviour": GD at [51].[20] DJ Tay did not elaborate on what he meant by a "less rigorous and stringent approach", but he stated that in arriving at the conclusion that such an approach was called for in the context of

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17 GD at [4] (ROA (Vol I) at p 8).

18 NEs dated 14 May 2025 at p 59 line 14 – p 60 line 23 (ROA (Vol III) at pp 909–910).

19 ROA (Vol I) at p 10.

20 ROA (Vol I) at p 22.

judicial separation proceedings, he relied on academic commentary by Professor Leong Wai Kum ("Prof Leong"), as well as the judgment of the Family Court in *USC v USD* [2019] SGFC 6 ("*USC v USD*").[21]

Whether parties had separated since 2018

13 A preliminary issue which DJ Tay had to address was whether the parties had in fact separated from each other since their Trial Separation in 2018. This was because the court's finding on this would "have a bearing on how the [c]ourt should view incidents and/or the [Husband's] alleged behaviour" in considering whether he had behaved in such a way that it would be unreasonable to expect the Wife to continue living with him: GD at [20].[22]

14 The Husband claimed that the parties' marital relationship had already ended after November 2018,[23] from which point they did not "behav[e] as a married couple".[24] On the other hand, the Wife claimed that the parties "got back together" after the Trial Separation, and that this was evinced, *inter alia*, by the manner in which they continued to regularly update each other on their lives, even until 2023.[25]

15 DJ Tay found that although the parties had been living separately in different countries for some time, the "frequency, nature and contents" of their

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21 GD at [17]–[18] (ROA (Vol I) at p 11).

22 ROA (Vol I) at p 12.

23 NEs dated 14 May 2025 at p 69 lines 11–13 (ROA (Vol III) at p 919).

24 Defendant's Written Submissions dated 17 June 2025 for FC/D 1949/2024 ("DWS") at paras 15–16 (ROA (Vol IV) at pp 47–62); see also GD at [21]–[22] (ROA (Vol I) at pp 12–13).

25 NEs dated 14 May 2025 at p 22 lines 1–3 (ROA (Vol III) at p 872); see also GD at [23] (ROA (Vol I) at p 13).

communication after the Trial Separation went "beyond mere platonic friendship", with parties appearing to interact and function as a married couple.[26] DJ Tay also cited other pieces of evidence which, in his view, showed that the parties still regarded themselves as a married couple after the Trial Separation. *Inter alia*, DJ Tay highlighted three instances in 2022 when the Husband had not corrected the Wife when she referred to herself as "wife" in her messages to him.[27] He placed weight as well on the Husband's testimony that parties were "*moving towards* a separate relationship" [emphasis added] in 2020, 2021 and 2022: in his view, the Husband's terminology suggested that parties had *not* yet been separated by November 2018, otherwise there would have been no need to "move towards" a separate relationship.[28]

16 Further, although the Wife was aware of the Husband "seeing and living with another woman during the period of alleged separation", DJ Tay opined that this "[did] not necessarily mean (at least in the [Wife's] mind) that parties are formally separated".[29]

17 On balance, DJ Tay found that parties had "conducted themselves and treated each other in a manner more consistent as spouses in an existing marriage",[30] and that there was no clear evidence of either party having intended to separate. DJ Tay therefore found that parties had *not* in fact separated after the Trial Separation.

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26 GD at [25(c)] (ROA (Vol I) at p 14).

27 GD at [25(e)] (ROA (Vol I) at pp 14–15).

28 GD at [26] (ROA (Vol I) at p 15).

29 GD at [25(d)] (ROA (Vol I) at p 14).

30 GD at [27] (ROA (Vol I) at p 15).

Whether the Husband had acted in such a manner that the Wife could not reasonably be expected to live with him

18 Following from the above finding, DJ Tay noted that insofar as proof of the Husband's unreasonable behaviour was concerned, the Wife had cited, *inter alia*, instances of the Husband having refused to respond to her requests for physical intimacy and his having failed to prioritise spending time with her (see [29]–[36] of the GD).[31] DJ Tay was of the view that the Husband was able to offer explanations for the instances cited by the Wife. More importantly, DJ Tay found that "the incidents and the [Husband's] behaviour prior to the issue relating to the US visa application in 2023 would not by themselves have been behaviour that had affected the [Wife] such that it would compel her to apply for judicial separation or divorce" (at [36] of the GD).[32]

19 I will refer to the "issue relating to the US visa application" as the "Visa Application Issue". In gist, DJ Tay noted that between January and August 2023, parties had discussed having the Husband apply for a dependent pass visa for the Wife in order for her to join him in the US. DJ Tay found that although the Husband had given various reasons for not following up on the visa application (for instance, that he was caught up with work or that he needed to settle his accommodation issues in the US), he had not "outrightly refuse[d]" the Wife's request for him to obtain a US visa for her, nor had he explicitly informed her that he was not going to support her visa application: GD at [38].[33] On the contrary, he admitted in cross-examination that as at August 2023, he was still "giving the [Wife] the impression that both of them were working on the method to get [her] a US visa", and that even after filing for divorce in India

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31 ROA (Vol I) at pp 16–18.

32 ROA (Vol I) at p 18.

33 ROA (Vol I) at pp 18–19.

on 5 August 2023, he continued to engage the Wife about "trying to apply for the US visa for her" and did not inform her about his filing for divorce in India: GD at [39].[34]

20 DJ Tay found that the above behaviour by the Husband amounted to having given the Wife the "belief", "false expectation" and "hope" that "parties were planning for her relocation to the US as a married couple and that the [Husband] would apply for [a] US dependent pass visa for her, when in fact, he did not have the sincere or genuine intention to do so": GD at [40]–[41].[35] His behaviour would have "undermined the [Wife's] trust in him and led to a sense of betrayal in her": GD at [42].[36]

21 DJ Tay also described the Husband's behaviour in respect of the Visa Application Issue as "secretive behaviour", in that he had "misled [the Wife] and (up till August 2023) concealed his genuine intentions from her": GD at [43].[37] In this connection, while DJ Tay rejected some of the Wife's allegations about the Husband's "secretive behaviour", he accepted that another instance of such "secretive behaviour" was the Husband's refusal to disclose his US address to the Wife: GD at [44]–[45].[38]

22 In sum, while DJ Tay did not accept all of the Wife's allegations against the Husband, he was satisfied that "the [Husband's] actions with regard to him giving the [Wife] false expectation and hope of relocating to the US to reunite

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34 ROA (Vol I) at p 19.

35 ROA (Vol I) at p 19.

36 ROA (Vol I) at p 19.

37 ROA (Vol I) at p 20.

38 ROA (Vol I) at p 20.

with him, misleading her on the US visa application and concealing and being secretive of his true intentions" would have "undermine[d] [the Wife's] trust, emotional stability and sense of security in the relationship"; and that cumulatively, his behaviour was such that the Wife could not reasonably be expected to live with him: GD at [48].[39]

Issues to be determined

23 The four main issues in contention in this appeal are as follows:

(a) Whether a "less stringent threshold" (see [18] of the GD)[40] should be applied by the court in assessing unreasonable behaviour in judicial separation proceedings – as opposed to divorce proceedings;

(b) Whether parties in this case had already separated since 2018;

(c) Whether the Husband's conduct in relation to the Visa Application Issue was unreasonable; and

(d) Whether the Husband's actions (individually or cumulatively) amounted to unreasonable behaviour such that the Wife could not reasonably be expected to live with him.

The applicable legal principles

24 Section 101(1) of the WC provides for the grounds on which a judgment of judicial separation may be obtained by referencing the grounds for divorce set out in s 95(3) – with "the necessary modifications":

Judicial separation

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39 ROA (Vol I) at p 21.

40 ROA (Vol I) at p 11.

> **101**.—(1) A writ for judicial separation may be filed in court by either party to a marriage on the ground and circumstances set out in section 95(3), and that section applies, with the necessary modifications, in relation to such a writ as it applies in relation to a writ for divorce.
>
> […]

25 In turn, s 95(1), 95(2) and 95(3)(*b*) of the WC provide:

> **Irretrievable breakdown of marriage to be sole ground for divorce**
>
> **95**.—(1) Either party to a marriage may file a writ for divorce on the ground that the marriage has irretrievably broken down.
>
> (2) The court hearing such proceedings must, so far as it reasonably can, inquire into the facts alleged as causing or leading to the breakdown of the marriage and, if satisfied that the circumstances make it just and reasonable to do so, grant a judgment for its dissolution.
>
> (3) The court hearing any proceedings for divorce is not to hold the marriage to have broken down irretrievably unless the plaintiff satisfies the court of one or more of the following facts:
>
> […]
>
> (*b*) that the defendant has behaved in such a way that the plaintiff cannot reasonably be expected to live with the defendant;
>
> […]

26 Once a judgment of judicial separation is granted, it is no longer obligatory for parties to cohabit: s 101(2) of the WC. Unlike a judgment of dissolution of the marriage, a judgment of judicial separation does not affect the status of the marriage: *Halsbury's Laws of Singapore* vol 11 (LexisNexis, 2023) ("*Halsbury's Laws of Singapore*") at para 130.228. However, as I point out at [58]–[59] below, a judgment of judicial separation has a number of important implications for parties.

27 The specific ground relied on in the present case was that set out in s 95(3)(*b*) of the WC, where the defendant spouse "has behaved in such a way

that the plaintiff [spouse] cannot reasonably be expected to live with [him]". The test under s 95(3)(*b*) "is an objective one that requires the court to take into account the subjective qualities of the plaintiff": *Teo Hoon Ping v Tan Lay Ying Angeline* [2010] 1 SLR 691 ("*Teo Hoon Ping*") at [37]. In applying this test, the court is concerned with the *objective* question of whether a plaintiff can reasonably be expected to live with the defendant, having regard to the personalities of the individuals in question, the impact of the defendant's conduct and the particular plaintiff in the light of the whole history of the marriage and their relationship: *Wong Siew Boey v Lee Boon Fatt* [1994] 1 SLR(R) 323 ("*Wong Siew Boey*") at [8]; see also *Castello Ana Paula Costa Fusillier v Lobo Carlos Manuel Rosado* [2003] 4 SLR(R) 331 ("*Castello*") at [21(b)]. The *reasons* for a defendant's behaviour may be taken into account, since "a reasonable man is more likely to think that it is reasonable for a plaintiff to live with a defendant whose behaviour is objectively unreasonable but not voluntary, than if that behaviour was entirely voluntary" – but this does not mean that the plaintiff is required to put up with any kind of behaviour on the part of the defendant so long as such behaviour had extraneous causes: *Teo Hoon Ping* at [45], citing *Thurlow v Thurlow* [1976] Fam 32. Ultimately, the emphasis is on whether it is reasonable to expect the plaintiff to carry on living with the defendant, rather than whether the defendant has acted in a blameworthy manner; and the fact that a defendant cannot be blamed for his behaviour should not be a bar to a finding in favour of a plaintiff under s 95(3)(*b*) of the WC (*Teo Hoon Ping* at [45]–[46]). This has been summarised as a question of whether "a reasonable man [would] expect *this* plaintiff to continue to live with *this* defendant" [emphasis added], and this is "an objective determination within the subjectivity of the particular parties before the court": *Halsbury's Laws of Singapore* at paras 130.271–130.272.

Issue (a): Whether a "less stringent threshold" is to be applied by the court in assessing unreasonable behaviour in judicial separation proceedings (as opposed to divorce proceedings)

The parties' respective cases on appeal

28 Issue (a) arose on appeal because in arriving at his decision, DJ Tay held that a "less rigorous and stringent approach" was to be adopted in "viewing alleged unreasonable behaviour" in the context of judicial separation proceedings (at [51] of the DJ's GD).[41] DJ Tay cited, *inter alia*, the decision of the Family Court in *USC v USD*, stating that the Family Court in that case had taken the view "that adopting a less stringent threshold meant doing so in terms of the impact of the alleged unreasonable behaviour, and that once the [c]ourt is satisfied that a plaintiff's contentions are established, the [c]ourt should be more inclined to grant a plaintiff's application for judicial separation" (at [18] of the GD).[42]

29 The Husband submitted that DJ Tay erred in adopting a "less stringent approach" to the assessment of allegedly unreasonable behaviour in judicial separation proceedings. First, while DJ Tay cited academic commentary and the decision in *USC v USD*, there was actually no High Court authority for the proposition that a party seeking to rely on the ground in s 95(3)(*b*) of the WC was subject to a lower threshold of proof in judicial separation proceedings, as compared to divorce proceedings.[43]

30 Second, the Husband submitted that it would be "illogical" to adopt a "less stringent approach" in judicial separation proceedings because s 102(2) of

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41 ROA (Vol I) at p 22.

42 ROA (Vol I) at p 11.

43 Appellant's Case ("AC") at paras 12–14.

the WC allows a Court to treat a judgment of judicial separation as sufficient proof of the ground on which it was granted, for the purposes of a divorce application. If a judgment for judicial separation were to be granted more readily (based on a lower threshold of proof under s 95(3)(*b*)), a plaintiff might use this to obtain a judgment of divorce even if he or she would otherwise have been unable to independently establish the ground(s) of divorce. This, the Husband argued, "would create a legal loophole susceptible to abuse".[44]

31 In her written submissions, the Wife originally took the position that both DJ Tay in the present case and the Family Court in *USC v USD* were correct: *ie*, "a lower threshold" did apply in respect of the proof of unreasonable behaviour in judicial separation proceedings, as compared to divorce proceedings.[45]

32 However, in oral submissions at the hearing of the appeal, the Wife accepted that a party applying for judicial separation must still prove one of the grounds *on a balance of probabilities*. Counsel for the Wife clarified that when referring to a "lower threshold" being applicable in judicial separation proceedings, what the Wife meant was that in judicial separation cases, there should be no need for the court to find that the marriage had broken down irretrievably, unlike in divorce proceedings: *this* was the "necessary modification" provided for in s 101(1) of the WC.[46] On this point, the Husband disagreed with the Wife's submissions and took the position that in judicial

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44 AC at paras 15–17.

45 RC at paras 12–16; Respondent's Written Submissions dated 29 January 2026 ("RWS") at paras 4–13.

46 NEs dated 4 February 2026 at p 25 line 23 – p 26 line 13.

separation cases, the court would still need to find that the marriage had broken down irretrievably before it could grant a judgment of judicial separation.[47]

33 The Wife also disagreed with the Husband's submissions on s 102(2) of the WC. According to the Wife, if the same threshold of proof were to be applicable in both judicial separation and divorce proceedings, the requirement in s 102(2) for the court in divorce proceedings (after judgment of judicial separation has been granted) to *still* receive evidence from the plaintiff would be redundant.[48]

On the DJ's finding that a "less rigorous and stringent approach" should be adopted in assessing allegedly unreasonable behaviour in judicial separation proceedings

What DJ Tay meant by a "less rigorous and stringent approach"

34 In respect of Issue (a), it was not clear what DJ Tay meant when he held that a "less rigorous and stringent approach" should be adopted by the court when "viewing alleged unreasonable behaviour" in judicial separation proceedings.[49] On the one hand, the references to a "less rigorous and stringent approach" and a "less stringent threshold"[50] appeared to connote a *lower standard of proof* being applied by the court when assessing allegations of unreasonable behaviour in the context of judicial separation proceedings. On the other hand, DJ Tay expressly acknowledged that the Wife was required to "[prove] on [a] balance of probabilities that the [Husband] has behaved in such

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47 NEs dated 4 February 2026 at p 13 lines 11–22.

48 RC at paras 20–21.

49 GD at [51] (ROA (Vol I) at p 22).

50 GD at [18] (ROA (Vol I) at p 11).

a way that she cannot reasonably be expected to live with him".[51] At the same time, while DJ Tay did not elaborate on how exactly he envisaged "a less rigorous approach" being applied in judicial separation cases, he did appear to agree with and adopt the reasoning of the Family Court DJ in *USC v USD*.

What the Family Court in USC v USD meant by a "less rigorous and stringent approach"

35 *USC v USD* involved, *inter alia*, the plaintiff wife's application for judicial separation against the defendant husband on the ground of the latter's unreasonable behaviour. In addressing "the applicable threshold which must be crossed to grant a judgment of judicial separation as compared to a judgment of divorce" (at [43] of *USC v USD*), the Family Court DJ began by opining that the issue was "not about the applicable standard of proof which ought to be applied for both cases": he had "no doubt" that "regardless of whether it was an application for judicial separation or divorce, the applicant must prove any of the facts listed at section 95(3) of the WC on a balance of probabilities" (at [44] of *USC v USD*).

36 Having opined that the same standard of proof applied in both judicial separation and divorce proceedings, the Family Court DJ in *USC v USD* noted that pursuant to s 101(1) of the WC, a writ for judicial separation could be filed "on the ground and circumstances set out in section 95(3)"; further, that s 101(1) provided for s 95(3) to apply "*with the necessary modifications*" in relation to such a writ as it applied in relation to a writ for divorce. Noting that a relevant question then arose as to "what was intended by the phrase 'necessary modifications'", the DJ went on to consider – at [50] of *USC v USD* – a number of passages from Prof Leong's textbook on family law in Singapore (Leong Wai

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[51] GD at [15] (ROA (Vol I) at p 10).

Kum, *Elements of Family Law in Singapore* (LexisNexis, 3rd Ed, 2018) ("*Elements*")). In the DJ's view, these passages in *Elements* suggested that "[a]s a *legal construct*, a judgment of judicial separation differs from a judgment of divorce insofar as the former is considered a 'temporary' order, whereas the latter is a conclusive and 'rigorous orders befitting as a relief of last resort'" [emphasis in original] (at [51(a)]); and that "[b]ecause of this, in considering whether a judgment of judicial separation ought to be ordered, the court may … adopt a less rigorous or demanding approach" (at [51(b)]) – or, as the DJ also put it, "tempered standards" (at [53(d)]).

37 While the judgment in *USC v USD* was not entirely clear on this point, the Family Court DJ in that case appeared to conclude that the phrase "necessary modifications" in s 101(1) WC "was intended to reflect the differing legal character of a judgment of judicial separation and a judgment of divorce, and accordingly included to indicate the differing legal threshold to be applied" (at [53(e)]). I surmised this was the case because at [54(b)] of the judgment in *USC v USD*, the DJ went on to hold that "the eventual consequence of a divorce is more severe and far reaching than a judicial separation". In his view, "a judicial separation is, loosely speaking, a step below divorce"; and "[o]n that basis there should [be] … greater allowances for a judgment of judicial separation" (at [54(b)]).

38 As to what exactly the application of a "less rigorous or demanding approach" (see [51(b)] of the GD) meant in the context of judicial separation proceedings brought under s 95(3)(*b*) of the WC, the Family Court DJ in *USC v USD* suggested that it could mean any one of the following things:

(a) Applying a "less rigorous or demanding approach" in judicial separation cases may mean that behaviour that is not considered

"unreasonable" for the purposes of divorce proceedings based on s 95(3)(*b*) WC may nonetheless be considered sufficiently "unreasonable" for the purposes of judicial separation proceedings based on the same ground (at [51(d)] of *USC v USD*);

(b) Applying a "less rigorous or demanding approach" in judicial separation cases may mean that a "less stringent threshold" is applied by the court in assessing "the impact of the alleged unreasonable behaviour", in that once the court finds that the alleged unreasonable behaviour has been "objectively establish[ed]", the court will adopt "a less robust approach" in determining whether the plaintiff can reasonably be expected to live with such behaviour (at [55] of *USC v USD*, citing *Wong Siew Boey*); or

(c) Applying a "less rigorous or demanding approach" in judicial separation proceedings may mean that even where one of the spouses in such proceedings envisages "the prospect of reconciliation", a judgment of judicial separation may still be granted (at [51(d)] of *USC v USD*).

39 The Family Court DJ in *USC v USD* preferred the approach outlined at [38(b)] above (see [55] of *USC v USD*). At [64] of *USC v USD*, the Family Court DJ went on to summarise what he perceived to be "the applicable test" for the ground of unreasonable behaviour under s 95(3)(*b*) of the WC. Citing *Wong Siew Boey*, the DJ held that the court would first have to determine whether the plaintiff who was relying on this ground found it "intolerable to live with the defendant". This question, according to the DJ, "is to be answered *subjectively*" [emphasis in original], after which the court then addresses the question of whether the plaintiff can reasonably be expected to live with the defendant". The DJ held that this second question would have to be answered

"using an objective test, having regard to the personalities of the individuals before it, however far these may be removed from some theoretical norm, and in light of the whole history of the marriage and their relationship" – a test which the DJ described as being "an objective question tailored towards the subjective idiosyncrasies of the parties". It is presumably at this stage that the court is expected to apply what the DJ called "a less stringent threshold" in assessing "the impact of the alleged unreasonable behaviour" (see *USC v USD* at [55]).

40 In the present case, DJ Tay appeared to endorse the above approach (albeit without elaborating on his reasons), as he cited several extracts from *USC v USD* in his GD (see GD at [18]).

41 With respect, I was of the view that the Family Court DJ's reasoning in *USC v USD* was erroneous; and insofar as DJ Tay relied on the reasoning of the DJ in *USC v USD*, DJ Tay too was in error. I explain.

My decision

42 In the interests of clarity, I first set out my conclusions:

(a) The sole ground for *divorce* is the irretrievable breakdown of the marriage. This can only be satisfied if one or more of the five facts set out in ss 95(3)(*a*)–95(3)(*e*) of the WC is established;

(b) A plaintiff who seeks a judgment for judicial separation under s 101(1) WC must also prove one of the five facts set out in s 95(3) of the WC. In divorce proceedings *as well as* judicial separation proceedings, the plaintiff bears the burden of proving on a balance of probabilities that at least one of these grounds is satisfied.

(c) Where the plaintiff seeks to rely on the defendant's alleged "unreasonable behaviour" under s 95(3)(*b*) of the WC (whether in a case of divorce or in a judicial separation case), the court is *not* required first to find that the plaintiff finds it subjectively intolerable to live with the defendant. What the court is required to consider under s 95(3)(*b*) is whether the plaintiff can reasonably be expected to live with the defendant (assuming the latter's alleged behaviour has been proven). In answering this question, the court applies an objective test, but this "is not the same as asking whether a hypothetical reasonable spouse in the [plaintiff's] position would continue to live with the [defendant]", as the court will take into account the personalities of the individuals before it, and will assess the impact of the defendant's behaviour on the *particular* plaintiff in the light of the whole history of the marriage and their relationship (*Wong Siew Boey* at [8]).

(d) In considering whether the plaintiff can reasonably be expected to live with the defendant, given the latter's behaviour, the court does *not* apply a "less stringent threshold" in judicial separation proceedings, as compared to divorce proceedings. The test (see [42(c)] above) is the same, and the standard of proof is the same, in both judicial separation and divorce proceedings.

(e) However, in judicial separation cases, one of the "necessary modifications" to be applied is that there is no need for the court to reach the conclusion that the marriage has broken down irretrievably, as this need not be proven before a judgment of judicial separation is granted.

43 In [44]–[91] below, I set out my reasons for coming to the above conclusions.

The historical development of judicial separation in Singapore does not suggest that the courts should be more inclined to grant a judgment of judicial separation as compared to a divorce judgment

44 First, having considered the historical development of judicial separation in Singapore law, I found that it did not provide any basis for suggesting that the courts should be "more inclined" to grant a judgment of judicial separation (see *USC v USD* at [55]), as compared to a divorce judgment – or that the former should be "easier" to obtain than the latter.

45 By way of historical background, in pre-1700 England, the doctrine of strict indissolubility of marriage, shaped in large part by ecclesiastical law, meant that there was no official system of divorce. Even then, however, it was possible to obtain what was known as divorce *a mensa et thoro*, on limited grounds (*eg*, adultery): *Syed Mohamed Yassin and Sheriffa Rogayah v Syed Abdulrahman* [1915–23] XV SSLR 199 (Barrett-Lennard J); *ADP v ADQ* [2012] 2 SLR 143 at [47]–[49].

46 Eventually, members of the gentry, being unable to obtain *absolute* divorces before the civil or the ecclesiastical courts, turned to Parliament, as "the only authority in England competent to overrule Divine law": O.R. McGregor, "The Morton Commission: A Social and Historical Commentary" (1956) 7(3) The British Journal of Sociology 171. Private Acts of Parliament were passed on an *ad hoc* basis to allow *absolute* divorces even if the grounds for nullity of marriage were not present. Dissatisfaction with this system of divorce (which was generally the preserve of the wealthy) led to the passage of the Matrimonial Causes Act 1857. For present purposes, the relevant development was that divorces *a mensa et thoro* were abolished and replaced with decrees for judicial separation.

47 The concept of judicial divorce was introduced in Singapore via the Divorce Ordinance 1910 (Ordinance XXV of 1910), "which was largely modelled on the English Matrimonial Causes Act 1857 (as modified by subsequent enactments)": *Yap Chai Ling v Hou Wa Yi* [2016] 1 SLR 660 at [41] (the Court of Appeal in *Yap Chai Ling v Hou Wa Yi* [2016] 4 SLR 581 dismissed the appeal against this decision without commenting on the Divorce Ordinance 1910). Section 17(1) of the Divorce Ordinance 1910 provided for judicial separation on the grounds of "adultery or cruelty or desertion without reasonable excuse for two years or upwards" – although this was restricted to cases where the petitioner professed the Christian religion *and* both parties to the marriage resided in the Colony of Singapore at the time of commencement of proceedings: s 4(3). Pursuant to s 17(2) of that Ordinance, the Court could "decree judicial separation" once it was satisfied that "the statements in such petition [were] true and that there [was] no legal ground why the application should not be granted".

48 No cross-reference was made in s 17 to the grounds provided for divorce in the same ordinance. In fact, a comparison of the provisions for judicial separation and those relating to divorce revealed some interesting differences. While the Divorce Ordinance 1910 provided for cruelty and desertion – in addition to adultery – as grounds for judicial separation, a decree for divorce under the same Ordinance had to be based on a ground tied to adultery (*eg* adultery coupled with cruelty), unless the petitioner wife could prove that: (a) the respondent husband had exchanged his profession of Christianity for the profession of some other religion and gone through a form of marriage with another woman (s 5(2)(*a*) of the Divorce Ordinance 1910); or (b) that the respondent husband had been guilty of rape, sodomy or bestiality (s 5(2)(*b*)(iv) of the Divorce Ordinance 1910). In other words, as Prof Leong observed in her

1997 textbook (Leong Wai Kum, *Principles of Family Law in Singapore* (Butterworths Asia, 1997) at p 745), the law of judicial separation under the Divorce Ordinance 1910 "appeared to be rather more progressive in offering more grounds which were not introduced into divorce for another 31 years [*ie*, until the Divorce (Amendment No. 2) Ordinance 25 of 1941 was enacted]".

49 Over several decades, even though the Divorce Ordinance was amended on multiple occasions, the provisions relating to judicial separation remained similar, with no cross-reference being made to the provisions relating to divorce.

50 This changed with the Divorce (Amendment No. 2) Ordinance 25 of 1941. Section 8 of this Ordinance introduced a new provision for judicial separation, which provided that a petition for judicial separation could be presented "on any grounds on which a petition for dissolution of marriage might have been presented". Further, the circumstances in which a petition for dissolution of marriage "shall or may be granted or dismissed, shall apply *in like manner* to a petition for judicial separation" [emphasis added]. At this stage, the phrase "necessary modifications" was not used in the legislation. Pursuant to section 3 of this Ordinance (which amended s 5 of the Divorce Ordinance as amended by the Divorce (Amendment) Ordinance 1939 and the Divorce (Amendment) Ordinance 1941), a petitioner husband could seek divorce on the grounds of adultery, desertion, cruelty or unsound mind on the part of the respondent wife. On the other hand, a petitioner wife could seek divorce on those grounds, in addition to other grounds (namely, the fact that the respondent husband had exchanged his profession of Christianity for the profession of some other religion and gone through a form of marriage with another woman, or the respondent husband was guilty of rape, sodomy or bestiality). These grounds for divorce would therefore apply "in like manner" to a petition for judicial separation.

51 On a plain reading of the provision introduced in 1941, there was no suggestion that in providing for the grounds for a petition for dissolution of marriage to apply "in like manner" to petitions for judicial separation, the legislature intended that decrees of judicial separation should be treated as being less weighty or less "severe" than decrees of divorce and/or that the former should be more easily obtained than the latter. If anything, under the Divorce Ordinance 1910, the grounds on which a decree of divorce could be sought were actually more restrictive than those on which judicial separation could be sought; whereas the Divorce (Amendment No. 2) Ordinance 25 of 1941 aligned the grounds for divorce with those on which judicial separation could be sought.

52 The language of section 8 of Divorce (Amendment No. 2) Ordinance 25 of 1941 persisted in successive versions of the Divorce Ordinance, and subsequently also in the Women's Charter (No. 18 of 1961) (see s 96(1)). It was only after the passage of the Women's Charter (Amendment) Act 1980 (No. 26 of 1980) that language similar to the present provision on judicial separation emerged. Following the amendment, s 89(1) of the Women's Charter provided that a petition for judicial separation may be presented "on the ground and circumstances" set out in [s 82(3), which related to divorces]", and further that s 82 (on divorces) "shall, *with the necessary modifications*, apply in relation to such a petition [for judicial separation] as they apply in relation to a petition for divorce" [emphasis in original]. Even then, despite the introduction of the words "with the necessary modifications", there was no suggestion in the Parliamentary debates on the Women's Charter (Amendment) Bill 1979 that the law of judicial separation was being modified so as to make it easier for parties to obtain a decree of judicial separation (as compared to a divorce decree): Singapore Parl Debates; Vol 39, Sitting No 6; Col 411–415; [7 September

1979].[52] In both the version of the Women's Charter in force at the time the Wife filed her writ for judicial separation and the current version, it is s 101(1) that provides for judicial separation. Section 101(1) is drafted in substantially similar terms to the then s 89(1): it provides that a writ for judicial separation may be filed by either party to a marriage "on the ground and circumstances set out in section 95(3) [the provision relating to divorce]", and that s 95(3) "applies, with the necessary modifications, in relation to such a writ as it applies in relation to a writ for divorce".

53 Having regard to the history of the statutory provisions on judicial separation, therefore, I found no basis for the suggestion in *USC v USD* (at [54(b)]) that judicial separation was intended by Parliament to be regarded (loosely) as "a step below divorce" and that there should accordingly be "greater allowances for a judgment of judicial separation". On the contrary, given the historical development of judicial separation in Singapore law as outlined at [47]–[52] above, if Parliament *had* intended to bring about the application of a different – and *lower* – "legal threshold" to judicial separation cases such that it would be *easier* for parties to obtain a decree of judicial separation, this would have been a significant change in the law which would surely have been done deliberately, by clear, measured and considered provisions – rather than by leaving it to inference (see Diggory Bailey and Luke Norbury, *Bennion, Bailey and Norbury on Statutory Interpretation* (LexisNexis, 8th Ed, 2020) at para 26.7). Insofar as *USC v USD* suggested (and DJ Tay apparently accepted) the application of a different – and *lower* – "legal threshold" to judicial separation cases, there was nothing in s 101(1) or in any of the relevant Parliamentary debates which pointed to such legislative intention, much less anything in these

[52] Appellant's Supplementary Bundle of Authorities dated 29 January 2026 at pp 34–35.

materials which elucidated *how* a lower "legal threshold" for judicial separation cases might operate.

Other WC provisions relating to judicial separation do not support the suggestion that a "less stringent threshold" should apply for judicial separation because it carries less "severe" and less "far reaching" consequences than divorce

54 In *USC v USD*, the Family Court DJ acknowledged that the expression "necessary modifications" was used in other provisions in the WC aside from s 101(1) (*eg* ss 70, 74 and 127(2)); and that in these other provisions, it did *not* appear to have been used "to reflect the differing legal character of a judgment of judicial separation and a judgment of divorce, and accordingly … to indicate the differing legal threshold to be applied" (at [53(e)] of *USC v USD*). In these other provisions, the expression "necessary modifications" appeared "to be used more as a shorthand to reflect administrative or nomenclature modifications, akin to using the Latin phrase '*mutatis mutandis*'" (at [53(f)] of *USC v USD*). However, the DJ held that this apparent inconsistency was "not insurmountable". In his view, "if the phrase [necessary modifications] in section 101(1) was to be read in a manner it was used in the other provisions", it would "seek to alter the legal character of a judicial separation". Also, according to the DJ, it would render s 102(2) "otiose": see [54(c)] of *USC v USD*.

55 I did not accept the Family Court DJ's reasoning in *USC v USD*, for the following reasons.

56 At the outset, I noted that in *USC v USD,* the DJ's proposition that judicial separation cases warranted a "less stringent threshold" was based in large part on his view that a judgment of judicial separation was of a "temporary" nature and carried less "severe and far reaching" consequences –

as compared to a judgment of divorce. With respect, this proposition was not supported by a careful reading of the relevant provisions in the Women's Charter.

57 It is true that a judgment of divorce is a "conclusive" order in that it finally terminates the *legal* relationship between parties. The nature of divorce as a "last resort" has been recognised in Parliament: it has been observed that the "first priority is to save marriages where possible": Singapore Parl Debates; Vol 95, Sitting No 44; [10 January 2022] (Ms Sun Xueling, Minister of State for Social and Family Development). In contrast, a judgment of judicial separation does not terminate the legal relationship between parties to a marriage: after a judgment of judicial separation, parties may still choose to reconcile and resume cohabitation if their marital relationship improves. In this sense, therefore, it is true that a judgment of judicial separation is "temporary" in terms of its "effect on the continuity of the spouses' relationship" – unlike a divorce judgment which "terminates the marital relationship with finality": *Elements* at para 6.020.

58 However, a judgment of judicial separation is not "temporary" in the sense that parties can *always revert to the positions they were in prior to the grant of such a judgment.* First, the grant of a judgment of judicial separation is one method by which the consequential financial provisions under the WC may be triggered. The Court's powers to order division of matrimonial assets under s 112(1) of the WC, and to order maintenance to a wife or incapacitated husband under s 113(1) of the WC, are engaged upon or subsequent to "the grant of a judgment of divorce, judicial separation or nullity of marriage". In other words, parties' financial positions may be altered – and may remain so altered – following a judgment of judicial separation, in the same way that they may be altered (and remain so altered) following a divorce judgment.

59 Second, once a judgment of judicial separation is granted, if either party to a marriage which is subject to such judgment dies intestate after 1 June 1981, "all or any of his or her movable or immovable property devolves as if the other party to the marriage had been then dead": s 103 of the WC. Without this rule, the general position would be that stipulated in Rule 1 to s 7 of the Intestate Succession Act 1967 (2020 Rev Ed), whereby the spouse of an intestate who "dies leaving a surviving spouse, no issue and no parent" would receive the whole of the deceased's estate. This again illustrates the inherently potent effect of judicial separation on parties' financial positions.

60 Having regard to the reasons explained above, I found that the DJ in *USC v USD* was wrong in postulating that a "less stringent" approach was warranted in granting judgments of judicial separation cases because such judgments were "temporary" and thus less "severe" or less "far reaching" in their consequences than divorce judgments.

Section 94(1) WC does not support the adoption of a "less stringent" approach to judicial separation

61 In this connection, I noted that the Wife sought to rely on the three-year bar on the filing of divorce proceedings – and the absence of any such bar on the filing of judicial separation proceedings – as evidence tending to support a "less stringent threshold" for judicial separation cases. According to the Wife, the absence of a similar three-year bar on the filing of judicial separation proceedings showed that judicial separation was meant to be a "more accessible" remedy, compared to divorce.[53]

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[53] Wife's Further Written Submissions dated 2 February 2026 at paras 12–16.

62 I did not accept the above proposition. First, the Wife's submissions in this respect were beset by the same conundrum apparent in both DJ Tay's GD and the Family Court's judgment in *USC v USD*. Like DJ Tay and the Family Court in *USC v USD,* the Wife accepted that the standard of proof applicable in judicial separation cases remained that of a balance of probabilities. Having accepted this, the Wife was unable to offer any coherent explanation as to what exactly was entailed in treating judicial separation as a "more accessible" remedy, compared to divorce.

63 Insofar as the Wife appeared to believe that this involved – in very broad terms – the courts being somehow more prepared or more willing to grant judgments of judicial separation, this was wrong in principle. It is true that pursuant to s 94(1) of the WC, parties to a marriage are barred from filing for divorce within the first three years of the marriage, unless "exceptional hardship" has been suffered by the applicant for divorce or "exceptional depravity" is shown on the part of the respondent (s 94(2) of the WC). In the absence of these exceptional circumstances, parties who wish to obtain an order for division of matrimonial assets, and yet are unable to file for divorce, may apply for judicial separation. It should be noted, however, that in such cases, judicial separation is not sought as "temporary" relief: it is merely one step towards the termination of the marriage, legal confirmation of which can only be obtained by filing for divorce after the three-year period of prohibition has elapsed. In fact, the three-year bar has been described as helping to "convey that divorce should be [the] last resort" (Leong Wai Kum, *Marriage, Spouses and Assets* (Academy Publishing, 2025) at para 8.40). To recognise a "less stringent" threshold for judicial separation would allow parties to obtain a division of assets at a much earlier stage in the marriage – a state of affairs which would be inconsistent with the stated legislative objective of "sav[ing]

marriages where possible" (see [57] above) much more easily. It is *because* the option of judicial separation is available in the initial three years of a marriage that the courts should not assess a writ for judicial separation with any less rigour with which it would assess a writ for divorce.

Section 102(2) WC does not support the adoption of a "less stringent" approach to judicial separation

64 In his judgment in *USC v USD* (at [54(c)]), the Family Court DJ in *USC v USD* also suggested that the words "necessary modifications" in s 101(1) of the WC should be understood to connote a "less stringent" threshold in judicial separation cases because – according to the DJ – any other reading of these words would render s 102(2) "otiose". The DJ did not elaborate on his reasons for coming to such a conclusion, but on appeal, both parties sought to rely on s 102(2) in support of their respective positions.

65 Sections 102(1)–102(2) of the WC provide as follows:

> **Judicial separation no bar to writ for divorce**
>
> **102.**—(1) A person is not prevented from filing a writ for divorce, or the court from pronouncing a judgment of divorce, by reason only that the plaintiff or defendant has at any time been granted a judicial separation upon the same or substantially the same facts as those proved in support of the writ for divorce.
>
> (2) On any such writ for divorce, the court may treat the judgment of judicial separation as sufficient proof of the adultery, desertion or other ground on which it was granted, but the court must not grant a judgment of divorce without receiving evidence from the plaintiff.
>
> […]

66 *Per* the Husband's submissions on appeal, DJ Tay's view (citing *USC v USD*) that a "less stringent" threshold applies in judicial separation cases could mean that an applicant who was unable to meet the "more stringent" threshold

in divorce proceedings would be able to commence judicial separation proceedings, obtain a judgment of judicial separation based on the "lesser" or "lower" threshold, and then use that judgment to seek a divorce.[54] The Wife, on the other hand, has argued that such a concern did not arise. According to her, "[a] plaintiff cannot rely on the [judicial separation] findings *simpliciter* to obtain a divorce": s 102(2) must be read so as to require "fresh evidence, properly tested in the divorce proceedings", because otherwise, the requirement in s 102(2) for evidence to be received from the applicant would be redundant.[55]

67 In my view, the Wife's argument was not supported by a plain reading of s 102(2). While s 102(2) does provide that the court hearing the divorce proceedings must receive evidence from the plaintiff, there is nothing in the provision which mandates that the plaintiff produce "fresh" evidence to "test" the findings already arrived at by the court in earlier proceedings for judicial separation. On a plain reading, the evidence to be received from the plaintiff under s 102(2) may (for example) comprise evidence intended merely to confirm that no material changes have occurred since the judgment of judicial separation was granted. In other words, there was some basis for the Husband's argument that if the courts were to be "less stringent" in granting judicial separation (in the broad sense of being more prepared or more willing to grant such an order), a judgment of judicial separation obtained on such basis might be treated as sufficient proof of the grounds for divorce; and this might have the effect of allowing parties to avoid the rigorous scrutiny which the courts would normally give to a writ for divorce.

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54 AC at para 17.

55 RC at paras 20–21.

68 For the reasons explained, therefore, I did not find that s 102(2) of the WC supported a "less stringent" approach to judicial separation.

The academic commentary cited in USC v USD does not support the adoption of a "less stringent" approach to judicial separation

69 Next, I noted that both DJ Tay in this case and the Family Court DJ in *USC v USD* cited commentary in Prof Leong's textbook *Elements* (at para 6.020) in support of their view that judicial separation cases warranted a "less stringent" or "less rigorous" approach, as compared to divorce cases. Indeed, the DJ in *USC v USD* (at [51(b)] and [53(d)]) stated that such an approach was "proposed" by Prof Leong in *Elements.*

70 Insofar as DJ Tay and the DJ in *USC v USD* appeared to suggest that a "less stringent" approach to judicial separation meant a greater willingness on the courts' part to grant judicial separation (as compared to divorce), I disagreed that this approach was "proposed" by Prof Leong in her academic writing.

71 I reproduce below the relevant portion from *Elements*:

> **Ground for judgment of judicial separation**
>
> [6.020] The Women's Charter offers as ground for a judgment of judicial separation the same ground that it offers for a judgment of divorce. The only difference is that the ground should be tempered as the judgment sought here has only temporary effect on the continuity of the spouses' relationship in contrast to divorce which terminates the marital relationship with finality. […]
>
> This means that the sole ground for the judgment of judicial separation is also that the marriage has irretrievably broken down (as with divorce under section 95(3)) and this condition of the marriage has to be proven by any of the five given facts (as with divorce). Of the "necessary modifications" to this ground and the five facts that are permissible when the application is for a judgment of judicial separation, there has not been a definitive case. *The author suggests that there could be any of four modifications:*

> 1. The understanding of whether the marriage is irretrievably broken down, in divorce, is rigorous as befitting a relief of last resort. *Within an application for judicial separation, however, this need not be as rigorous since the relief does not involve the termination of the marital relationship with finality.*
>
> 2. The duty of the court in matrimonial proceedings to encourage reconciliation of the spouses need not be understood as rigorously. Again, the reason would be that the plaintiff is seeking only temporary relief from an unhappy marriage and is not terminating her marriage.
>
> 3. The "defence" of refusing the judgment unless it were "just and reasonable" can practically be ignored. It may be regarded as generally just and reasonable for a spouse in an unhappy relationship to seek temporary relief in a situation where she could have sought a more permanent solution.
>
> 4. There may be less reason to delay granting the judgment even though the parties have not been able to make the best arrangements for the children.
>
> [emphasis added]

72 Notably, what Prof Leong actually suggested in the above passage was that there "could be any of four modifications" implicit in the phrase "necessary modifications" in s 101(1) of the WC, one of which involved applying *a less "rigorous" approach in judicial separation cases to determining whether the marriage had irretrievably broken down*. The same suggestion was made by Prof Leong in an earlier textbook (*Principles of Family Law in Singapore* (Butterworths Asia, 1997) at p 747), where she stated that "[a] court hearing an application for the fairly modest decree of judicial separation need not be concerned to find that the marriage is completely beyond salvage".[56]

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[56] RWS at para 8.

The proper interpretation of the words "necessary modification" in s 101(1) WC

73 For the reasons set out in [58]–[59] above, I would respectfully disagree with the suggestion that judicial separation amounted to a "fairly modest decree" compared to divorce.

74 However, I would agree that the term "necessary modifications" in s 101(1) of the WC may – indeed, should – be understood to mean that while judicial separation may be granted on proof of the same facts that justify a grant of divorce under s 95(3) WC, the court hearing judicial separation proceedings *need not* make a finding that the marriage has broken down irretrievably – unlike in the case of divorce. This modification, as Prof Leong explained, is justifiable on the basis that judicial separation "does not involve the termination of the marital relationship with finality". In divorce cases, in contrast, it is the irretrievable breakdown of the marriage which justifies the legal termination of the marital relationship.

75 I should add that another purpose of the words "necessary modifications" – as used in s 101(1) – is to denote modifications of the nomenclature used in s 95 of the WC for the purposes of judicial separation proceedings. An example of this is s 95(3) of the WC, which sets out the grounds relevant to a court "hearing any proceedings for divorce". That specific reference to "divorce" must be modified in the context of judicial separation in order for the same conditions to apply to the latter. In *USC v USD*, this additional purpose of the words "necessary modifications" – as used in s 101(1) – was pointed out by the Family Court DJ (at [53(e)]–[53(f)]), who noted that these words have been used to similar effect in other provisions in the WC – see, *eg*, ss 70(5), 74, 121G(2) and 127(2) of the WC).

No "Subjective Element" to the test for unreasonable behaviour under s 95(3)(b) of the WC

76 The final point I make in respect of Issue (a) in this appeal relates to the test for unreasonable behaviour under s 95(3)(*b*) of the WC.

77 In the present case, DJ Tay held that the test established by the High Court in *Wong Siew Boey* required the court *first* to answer "subjectively" the question "whether the Plaintiff finds it intolerable to live with the Defendant", and then to proceed to consider "whether the Plaintiff can reasonably be expected to live with the Defendant … using an objective test, having regard to the personalities of the individuals before it" (at [16] of GD).[57] The Family Court in *USC v USD* framed the test in the same terms (at [64] of *USC v USD*). Similar formulations can be seen in *Castello* at [21] and [24]–[25] and *VTP v VTO* [2021] SGHCF 36 ("*VTP v VTO*") at [7]. In each of these cases, *Wong Siew Boey* or *Castello* was cited as the authority for the test. The proposition thus appears to be that there are *two different elements* to the test for unreasonable behaviour under s 95(3)(*b*): first, a subjective element that asks whether the plaintiff finds it intolerable to live with the defendant ("Subjective Element"); and second, an objective element that asks whether the plaintiff can reasonably be expected to live with the defendant ("Objective Element").

78 With respect, having reviewed *Wong Siew Boey* as well as the authorities cited by the High Court in that judgment, I disagreed with the above formulation for unreasonable behaviour. I explain.

79 First, the words "the plaintiff finds it intolerable to live with the defendant" do not appear in s 95(3)(*b*) of the WC. Instead, these words appear

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57 ROA (Vol I) at p 11.

in s 95(3)(*a*), which provides for a separate and distinct ground of divorce (and for judicial separation, when read with the necessary modifications pursuant to s 101(1)); namely, "that the defendant has committed adultery and the plaintiff finds it intolerable to live with the defendant".

80 Second, there is nothing in s 95(3)(*b*) of the WC – or for that matter, anywhere else in s 95 – which indicates that the words "the plaintiff finds it intolerable to live with the defendant" should be imported into the test for unreasonable behaviour under s 95(3)(*b*).

81 Third, in articulating the test for unreasonable behaviour under what was then s 88(3)(*b*) of the Women's Charter (Cap 353, 1985 Rev Ed) (which was *in pari materia* with s 95(3)(*b*) of the WC in force at the material time for this case), the High Court in *Wong Siew Boey* referred to and endorsed the test established by the English courts for unreasonable behaviour under similar provisions in their legislation. Two judgments of the English courts were cited by the High Court in *Wong Siew Boey*. Neither of these judgments framed the test for unreasonable behaviour in terms of *both* a "Subjective Element" and an "Objective Element". Instead, the test for unreasonable behaviour was framed only in terms of the objective question of whether the respondent had behaved in such a way that the petitioner could not reasonably be expected to live with him, taking into account the parties' characters and personalities.

82 The first English authority cited by the High Court in *Wong Siew Boey* was *Livingstone-Stallard v Livingstone-Stallard* [1974] 2 All ER 766 ("*Livingstone-Stallard*"). In *Livingstone-Stallard*, Dunn J was concerned with s 1(2)(b) of the Matrimonial Causes Act 1973 ("the 1973 Act"). In gist, s 1(2) of the 1973 Act provided that the court hearing a petition for divorce "shall not hold the marriage to have broken down irretrievably" unless it was satisfied that

the petitioner had proven one or more of the facts set out in ss 1(2)(*a*)–1(2)(*e*). One of the relevant facts – pursuant to s 1(2)(*b*) – was that of the respondent's unreasonable behaviour; specifically, that the respondent had behaved in such a way that the petitioner could not reasonably be expected to live with the respondent. In rejecting the argument by counsel for the respondent husband that the test for unreasonable behaviour under s 1(2)(*b*) should import the notion of constructive desertion, Dunn J noted that the 1973 Act was "a reforming statute and the language of the subsection [*ie*, s 1(2)(*b*)] [was] very simple and quite easy for a layman to understand" (at p 771 of *Livingstone-Stallard*). He held that the question to be asked in relation to s 1(2)(*b*) was:

> … would any right-thinking person come to the conclusion that this husband has behaved in such a way that this wife cannot reasonably be expected to live with him, taking into account the whole of the circumstances and the character and personalities of the parties?

83 I add that s 1(2)(*a*) of the 1973 Act provided for the respondent's adultery as a separate ground for divorce as well as for judicial separation, pursuant to s 17(1) of the Act. The language of s 1(2)(*a*) was similar to that of our s 95(3)(*a*): it referred to the respondent having "committed adultery" and the petitioner "find[ing] it intolerable to live with the respondent". In *Livingstone-Stallard*, Dunn J did not import this element of the petitioner "find[ing] it intolerable to live with the respondent" into the test for unreasonable behaviour under s 1(2)(*b*) of the 1973 Act. Notably, the passage I have extracted above from *Livingstone-Stallard* was the same passage cited by the High Court in *Wong Siew Boey.*

84 The other English authority relied on by the High Court in *Wong Siew Boey* was *Ash v Ash* [1972] 1 All ER 582 ("*Ash*"). In *Ash*, Bagnall J was concerned with s 2(1)(b) of the Divorce Reform Act 1969 ("the 1969 Act"),

which was *in pari materia* with s 1(2)(*b*) of the 1973 Act. (As an aside, it may be noted that s 2(1)*(a*) of the 1969 Act was *in pari materia* with s 1(2)(*a*) of the 1973 Act.) Noting that the respondent husband disputed the petitioner wife's reliance on s 2(1)(*b*) of the 1969 Act, Bagnall J held (at p 585) that the true construction of s 2(1)(*b*) was as follows:

> **The phrase 'cannot reasonably be expected to live with the respondent' necessarily poses an objective test, in contradistinction to the phrase 'the petitioner finds it intolerable to live with the respondent in para (*a*) of the subsection. So much is common ground.** The question on which I heard considerable argument was: what is the meaning of the words 'the petitioner' in para (*b*)? Two possible constructions were canvassed, one which counsel for the wife … first submitted was that 'the petitioner' means the ordinary, reasonable spouse, looked at as a petitioner. The alternative … was that 'the petitioner' means the particular petitioner in the case under consideration. Faced with a choice between the two meanings, I have no hesitation in adopting the latter…
>
> In order, therefore, to answer the question whether the petitioner can or cannot reasonably be expected to live with the respondent, in my judgment, *I have to consider not only the behaviour of the respondent as alleged and established in evidence, but the character, personality, disposition and behaviour of the petitioner. The general question may be expanded thus: can this petitioner, with his or her character and personality, with his or her faults and other attributes, good and bad, and having regard to his or her behaviour during the marriage, reasonably be expected to live with this respondent?* […]
>
> [emphasis added]

85 The portion highlighted in bold in the above passage shows that not only did Bagnall J *not* import the subjective element of the petitioner "find[ing] it intolerable to live with the respondent" into the test for unreasonable behaviour under s 2(1)(*b*) of the 1969 Act, he was clear that this subjective element was specific to the separate ground of adultery provided for in s 2(1)(*a*) – and that "in contradistinction", the test for unreasonable behaviour was "an objective test", albeit tempered by the need for the court to consider the particular

character and attributes of the petitioner. Although the High Court in *Wong Siew Boey* did not cite this particular portion of the judgment in *Ash*, it must have been aware of these remarks by Bagnall J, since (at [10]) it referred to the page of the law report on which these remarks were found (p 585) before reproducing the above italicised portion from the judgment.

86 Fourth, in articulating the test for unreasonable behaviour, the High Court in *Wong Siew Boey* referenced (at [11]) with approval a textbook authority – PM Bromley, *Family Law* (8th Ed) ("*Bromley*") at ch 6, pp 192–199. At p 192, the learned authors of *Bromley* discussed the courts' approach to allegations of unreasonable behaviour under s 1(2)(*b*) of the 1973 Act. Citing both *Livingstone-Stallard* and *Ash*, the authors noted that the question of whether the petitioner could reasonably be expected to live with the respondent was a question of fact to be answered by the court: the test was "objective", but this was "not the same as asking whether a hypothetical reasonable spouse in the petitioner's position would continue to live with the respondent", as the court "must have regard to the personalities of the individuals before it, however far these may be removed from some theoretical norm, and it must assess the impact of the respondent's conduct on the particular petitioner in the light of the whole history of the marriage and their relationship". It will be seen that the same observations were made by the High Court in *Wong Siew Boey* at [8] of its judgment. What was also illuminating was that the above passage in *Bromley* followed immediately after a discussion by the authors of the test for intolerability under s 1(2)(*a*) of the 1973 Act, in which they expressly noted (at 190 of *Bromley*) that:

> Whether or not the petitioner finds it intolerable to live with the respondent is clearly a question of fact and the test is subjective: did *this* petitioner find it intolerable to live with *this* respondent?

> [emphasis in original]

87 Clearly, therefore, the authors of *Bromley* were cognisant that the test for unreasonable behaviour under s 1(2)(*b*) of the 1973 Act was a different test – an objective one (albeit incorporating consideration of the individual parties' attributes) – as contrasted with the subjective test for intolerability under s 1(2)(*a*). Indeed, in discussing the test for unreasonable behaviour at p 192 of *Bromley*, the learned authors prefaced their discussion by referencing their earlier observations on the test for intolerability thus:

> … [O]ne point must be stressed at the outset. *As we have seen, the question whether the petitioner finds it intolerable to live with the respondent must be answered subjectively: whether his attitude is reasonable is irrelevant. In dealing with behaviour, however, the question is whether the petitioner can* reasonably *be expected to live with the respondent … The test is thus objective …*
>
> [emphasis added]

88 Bearing in mind the reliance placed by the High Court in *Wong Siew Boey* on the extract from *Bromley* at [8] (implicitly) and [11] (expressly) of its judgment, I surmised that the court would have been aware of the distinction drawn by the authors between the subjective test for intolerability under s 1(2)(*a*) of the 1973 Act and the objective test for unreasonable behaviour under s 1(2)(*b*). As such, when the High Court in *Wong Siew Boey* referred to the test for intolerability being a subjective one (at [8]), I surmised that this reference was made in the context of contrasting the subjective nature of the question to be asked under the then s 88(3)(*a*) (now our s 95(3)(*a*)) with the objective nature of the question to be asked under the then s 88(3)(*b*) (now our s 95(3)(*b*)). I should add that in Nigel Lowe QC et al, *Bromley's Family Law* (Oxford University Press, 12th Ed, 2021), this distinction between the two tests has been made even clearer by the authors. At pp 200–201 of the 12th edition, the authors referred to the test for intolerability and reiterated that "[w]hether or

not the applicant found it intolerable to live with the respondent was clearly a question of fact and the test was subjective". At pp 201–203, the authors moved on to discussing the test for unreasonable behaviour and expressly contrasted this test with the test for intolerability:

> *In contrast to the test of intolerability under s 1(2)*(a)*, the question of whether the applicant could reasonably be expected to live with the respondent, was for the court, and not the applicant, to answer. The Supreme Court* [in *Owens v Owens* [2018] UKSC 41] *confirmed that the test was objective*, but this was not the same as asking whether a hypothetical reasonable spouse in the applicant's position would continue to live with the respondent. The court must have regard to the personalities of the individuals before it, however far these may be removed from some hypothetical norm, and it must assess the impact of the respondent's conduct on the particular applicant in the light of the whole history of the marriage and their relationship.
>
> [emphasis added]

89 To sum up, for the reasons explained at [79]–[81] above, I concluded that the High Court in *Wong Siew Boey* did *not* rule that in considering an application for judicial separation grounded on the defendant's unreasonable behaviour under s 95(3)(*b*) of the WC, the court must first consider whether subjectively, the plaintiff found it intolerable to live with the defendant before it could consider whether objectively, the defendant's behaviour had been such that the plaintiff could no longer reasonably be expected to live with him.

90 In any event, even leaving aside *Wong Siew Boey*, I found – having regard to the reasons explained at [82]–[88] above – that there was no basis to import the subjective element of intolerability into the test for unreasonable behaviour under s 95(3)(*b*) of the WC. Insofar as the Courts in *Castello* and *VTP v VTO* expressed approval of such an approach, I would respectfully differ from them. In my view, where the plaintiff seeks to rely on the defendant's alleged "unreasonable behaviour" under s 95(3)(*b*) (whether in a case of divorce or in a

judicial separation case), the court is *not* required first to find that subjectively, the plaintiff finds it intolerable to live with the defendant. What the court is required to consider under s 95(3)(*b*) is whether the plaintiff can reasonably be expected to live with the defendant (assuming the latter's alleged behaviour has been proven). To answer this question, the court applies an objective test, but it is a test which accounts for the parties' personalities and thus the impact of the defendant's behaviour on the *particular* plaintiff before the court, in the light of the whole history of their marital relationship.

91 To recapitulate, therefore: in respect of Issue (a) in this appeal, I found that DJ Tay erred in accepting the premise stated in *USC v USD* that a "less stringent approach" should be adopted by the courts in judicial separation cases when assessing "the impact of the alleged unreasonable behaviour" under s 95(3)(*b*) of the WC. He also erred in holding that the test for unreasonable behaviour required the court first to determine whether, subjectively, the plaintiff found it intolerable to live with the defendant.

92 That said, my findings on Issue (a) did not lead automatically to the conclusion that the Husband's appeal against the grant of a judgment of judicial separation should be allowed. On the contrary, having examined the evidence adduced by parties, I concluded that the Husband's appeal should not be allowed. This was because applying the appropriate legal principles to the evidence on record, I found no reason to overturn the findings of fact which DJ Tay ultimately arrived at in respect of Issues (b), (c) and (d). I explain.

Issue (b): Whether parties in this case have been separated since 2018

93 At the outset, I make two points. First, it should be noted that despite erroneously accepting the applicability of a "less stringent approach" in judicial

separation proceedings, DJ Tay did acknowledge that the Wife's allegations of unreasonable behaviour in this case had to be proven on a balance of probabilities.[58] In other words, leaving aside the pronouncements about the applicability of a "less stringent" threshold, DJ Tay did actually apply the correct standard of proof when it came to assessing the evidence adduced.

94 Second, in considering the Husband's appeal against DJ Tay's findings of fact, I bore in mind the general principles relating to appellate intervention in such cases. In gist, the lower court's decision must be "clearly inequitable or wrong in principle" to warrant appellate intervention: *TNL v TNK* [2017] 1 SLR 609 at [53]; see also *UBQ v UBR* [2023] 1 SLR 1294 at [51]. Specifically in relation to findings of fact, an appellate court will not disturb a factual finding unless the finding is "plainly wrong or against the weight of [the] evidence": *WXO v WXP* [2024] SGHCF 44 at [10]. At the same time, where evidence is given by way of affidavits or other documents, the appellate court will be in "as good a position as the [lower court] to draw inferences and conclusions from the evidence": *TSF v TSE* [2018] 2 SLR 833 at [50], applied recently in *WQY v WQZ* [2026] SGHCF 9 at [9].

95 With the above principles in mind, I first address Issue (b). This raised the question of whether parties in this case had in fact separated since 2018. This was an anterior question which had to be addressed by the court before considering whether the Husband had behaved in such a way that the Wife could not reasonably be expected to live with him. The question arose as a result of the Husband's assertion that parties had intended to and had in fact continued to be separated after the three-month Trial Separation in 2018 – whereas the Wife claimed that they had reconciled after the Trial Separation.

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58 GD at [15] (ROA (Vol I) at p 10).

96 On the evidence available, I declined to interfere with DJ Tay's finding that the parties had *not* in fact been separated since 2018. I found that the evidence available was broadly consistent with the Wife's version of events and that the evidence did show (on a balance of probabilities) that parties had reconciled after the Trial Separation in 2018.

97 First, the *regularity* of parties' communications and the *personal nature* of these communications post-2018 militated against the Husband's case that they had separated since 2018. The fact that there were few overt expressions of romantic sentiment and affection in their text messages between 2018 and 2023 was not material, since it could not be said that all married couples engage in overt displays of affection. What was material was that the messages showed that parties still regarded themselves to be in a marital relationship even post-2018. Thus, for example, on 24 September 2021, the Husband offered to call the Wife on her birthday: even after the Wife said that there was "[n]o obligation" to do so, he insisted on calling and assured her that his call was "[n]othing about obligation".[59] As another example, on 20 June 2021, the Husband apologised to the Wife for "not being responsive", and committed to reading and writing "within 1-2 days in future".[60]

98 Messages such as these showed that far from having separated and moved on to a "platonic, practical and transactional" relationship post-2018,[61] parties continued to engage each other in a manner indicative of a continuing marital relationship. In particular, if parties were no longer in a marital relationship after the Trial Separation in 2018, it made no sense for the Husband

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59 ROA (Vol III) at p 550.

60 ROA (Vol III) at p 169.

61 AC at para 27.

to apologise to the Wife *in 2021* for not being responsive, and even more strikingly, to make promises to her about how regularly he would communicate with her.

99 In this connection, while the chat history between the parties did show that there were multiple occasions between 2018 and 2023 when the Husband's responses to the Wife's message were delayed, or he was unable to call the Wife, I noted that he generally apologised for these failures and provided explanations for them (which explanations were often work-related). To give just one example: when the Wife complained on 3 December 2021 that it was "Friday now" and that she had not heard "a word" from the Husband despite his having agreed to talk to her "Mon or tue", the Husband's response on 5 December 2021 was to apologise for the "delay" and to explain that he had been occupied with "end of the year activities" and his "performance management with [his] boss".[62] He followed up on 6 December 2021 by apologising again to the Wife about his job being "like this"; and in the same chat, he could be seen endeavouring to find out her "preferred times" for him to speak to her.[63] That the Husband still perceived a need to apologise and explain to the Wife for delays in communicating with her, more than three years after the 2018 Trial Separation, spoke to the existence of a relationship that went beyond the purely "platonic" and "transactional".

100 Second, on the Husband's part, his own messages to the Wife showed that even after 2018, he would inform the Wife of "big-ticket" purchases and other personal financial matters. For example, on 23 October 2021, the Husband apologised to the Wife for "spring[ing] it" on her, committed to letting the Wife

62 ROA (Vol III) at p 579.

63 ROA (Vol III) at p 580.

know of "any investment", and stated that he would "structure [himself] better on investments and communicate in Q1" (presumably the first quarter of the following year).[64] From the preceding messages, it appeared that the Husband's messages were sent shortly after parties had a call; and reading the messages in context, it appeared that during the call, the Husband had given the Wife some unexpected news related to his investments. This would explain his apology to the Wife for "springing it" on her, as well as his promise to "structure [himself] better on investments" and to let her know of "any investment" going forward. While the exact nature of the investment-related news he conveyed to her during their call was not clear from the chat log, what was material was that these messages showed the Husband to have conveyed to the Wife news of some importance about investments, following which he apologised for "spring[ing]" the news on her and then made a commitment to do certain things better in relation to investments. Again, if in fact parties had already separated since mid-2018, it made no sense for the Husband to update the Wife about his financial affairs and to make promises as to how he would better conduct these financial affairs going forward.

101 As another example, when the Husband bought a car in February 2023, he updated the Wife on his purchase and explained to her that he "[d]idn't discuss much due to urgency".[65] When questioned about this at trial, the Husband's response was that he had merely informed the Wife about needing to buy a car and that there had been "no discussion".[66] However, the Husband's response missed the point altogether. As with the messages about his investments, the fact that he found it necessary to inform the Wife of a big-ticket

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64 ROA (Vol III) at p 560

65 ROA (Vol III) at p 211.

66 NEs dated 14 May 2025 at p 112 lines 21–28 (ROA (Vol III) at p 962).

purchase – and to explain his failure to discuss it with her – contradicted his description of their interactions post-2018 as being purely "platonic" and "transactional".

102 Third, on the Wife's part, the messages exchanged between the parties showed that even after the Trial Separation in 2018, she continued to refer to herself as the "wife" on numerous occasions and the Husband did not seek to correct her. For example, in a message sent to the Husband on 28 September 2022, the Wife asked that he inform the management of a house or an estate that his "wife" would be "pick[ing] up her stuff".[67] As another example, in a message dated 2 October 2022, she asked that he inform the "deep cleaners" that his "wife" would "visit later and she is not vaccinated but this is her home".[68] While the Husband tried to dismiss the usage of the term "wife" in such messages by claiming that these messages were simply about how parties should present their relationship to third parties, I did not find his explanation at all persuasive. The fact of the matter was that the Husband did not at any point query the Wife as to why he should continue to describe her as his "wife" to *third parties*, despite the passage of some *three to four years* since their alleged separation – nor did he seek to stop her from describing herself as his "wife". He also had no sensible explanation as to why there was a need for the Wife to continue to be presented to third parties as his wife if indeed they had already parted ways as a married couple after the 2018 Trial Separation.

103 It was also telling that in some of her messages to the Husband post-2018, the Wife spoke openly about her intention to leave him her property in the event of her death – and the Husband did not demur. For example, on 6

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67 ROA (Vol III) at p 661.

68 ROA (Vol III) at p 665.

September 2021, the Wife informed the Husband that "if I die u get 50 percent of my house";[69] and in June 2023, she told him about leaving him her house in her will.[70] The Husband tried to dismiss these messages by arguing that it was the Wife's prerogative to leave him part of her property. However, this argument did not address why she should choose to leave her property to him if indeed parties had already been separated since 2018 and no longer regarded themselves as a married couple. Insofar as the Husband's assertion that he "spent a great deal of money on the relationship" appeared to be an attempt to justify why the Wife should have chosen to leave him her property, this was a bare assertion. In any event, the Wife's communications about leaving him her property did not mention his past financial contributions to the relationship, nor did they state that her decision was motivated by his past financial contributions.

104 The Wife's communications about leaving the Husband her property in the event of her death should also be seen in the context of their ongoing, regular communications post-2018 in which – as I have mentioned (at [99]–[103] above – she described herself as his "wife" on numerous occasions; they discussed personal matters such as investments and major purchases; and he made commitments on various occasions to do better at personal matters such as responding regularly to her messages and structuring his investments.

105 I noted that the Husband sought to rely on the Wife's act of returning the wedding ring to him as proof of "the marriage ending".[71] It should be pointed out, however, that despite the lack of agreement on the exact date when the ring was returned (whether in 2018 or in 2019), the Husband did not seriously

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69 ROA (Vol III) at p 846.

70 ROA (Vol III) at p 225.

71 AC at para 32(b).

dispute that this act took place at a time when parties' relationship was in a rather acrimonious state. The Wife's explanation as to why she returned the ring to the Husband was that she acted impulsively in the heat of the moment and that parties' relationship improved over the several years that followed.[72] This narrative was supported by the evidence of parties' continuing communications – and in particular, their communications on personal matters - in the years post 2018: see again [99]–[103] above. I therefore rejected the Husband's argument about the Wife's act of returning the wedding ring being symbolic of "the marriage ending".

106 The Husband also argued that the parties' separation post-2018 was demonstrated by the sale of the Matrimonial Home, which was completed in or around March 2019; the division of the sale proceeds between parties; and the Wife's subsequent purchase of a condominium unit in 2019 "without the Husband's consent".[73] I rejected this argument as well. The Wife's evidence was that she agreed to the sale of the Matrimonial Home because the Husband required funds. This evidence was supported by the Husband's own evidence that the sale of the Matrimonial Home "was a joint decision by the [Wife] and [him]",[74] and that up until late 2018 (*ie*, around the time of the property sale), he was "barely making ends meet", having to pay for the monthly mortgage payments for the Matrimonial Home in Singapore while "maintain[ing] [his] own household in Japan".[75] That the sale proceeds were then divided between parties according to their respective contributions appeared to me to be an entirely reasonable decision in the context of the parties having been resident in

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72 Wife's AEIC at para 47 (ROA (Vol III) at pp 29–30); see also RC at para 33.

73 AC at paras 25 and 32(a).

74 Husband's AEIC at para 27(b)(iii) (ROA (Vol III) at p 274).

75 Husband's AEIC at para 27(b)(i) (ROA (Vol III) at p 273).

different countries at the material time and did not necessarily point to their having ceased to regard themselves as a married couple by that stage. As for the Wife's actions in subsequently purchasing a condominium unit, I found the Wife's explanation about needing a place of residence after the sale of the Matrimonial Home to be reasonable.[76] Moreover, after the purchase of the property, the Wife told the Husband of her intention to leave him the property (whether in part or in full) in the event of her death – which, as I have indicated, was contrary to the Husband's narrative about parties having separated and moved on to a "platonic, practical and transactional" relationship post-2018.

107 Finally, the Husband claimed that parties' messages showed that they "appeared to be living under pretenses [sic], especially towards their family in India". The Husband referred to the following messages:

(a) Referring to a time in January 2021 when the Wife's family had apparently made plans to celebrate the couple's wedding anniversary, the Husband focused on a message sent by the Wife on 29 January 2021 in which she had said that "*pretense is painful*" and also asked the Husband "*Now how am I supposed to say anything bout us*".[77]

(b) On 1 February 2021, the Wife mentioned in one of her messages that her parents "assume[d]" that parties would speak (on their wedding anniversary).[78]

(c) In a message dated 17 January 2022 from the Wife to the Husband, the Wife stated that her family "expect[ed] [the Husband' to

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76 Wife's AEIC at para 111 (ROA (Vol III) at p 44).

77 ROA Volume III at p 776.

78 ROA Volume III at p 777.

> speak". This message was apparently sent at a time when the Wife was ill, and the context was that her family appeared to expect the Husband to call her.[79]

108 As I understood it, the Husband's argument was that these messages showed parties to be putting on a pretence – vis-à-vis the Wife's parents – of still being a married couple despite having been separated since 2018. When read in context, however, the messages did not support his argument.

109 In respect of the messages referenced at [107(a)] above, it was not entirely clear what the Wife meant when she referred to "pretense" being painful. When the Wife was cross-examined about these messages in the trial below, she testified that parties were not pretending to be in a functioning marriage – and that instead, parties were putting on a pretence for her parents' benefit that they would be "living together very shortly**"**.[80] This was because her parents knew that she and the Husband were living apart, and she wanted to assuage her parents' concerns. Having reviewed the messages referenced by the Husband at [107(a)], I found that those messages were not inconsistent with the Wife's explanation. More importantly, parties returned to sending each other updates and messages of a personal – even affectionate – nature almost immediately after the above messages at [107(a)]. For example, the very next day (*ie*, 30 January 2021), the Wife shared with the Husband a YouTube video created by her friend;[81] and the day after, she told the Husband about having found many of his cards to her, which she described as "sweet".[82] This exchange

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79 ROA Volume III at pp 597.

80 NEs dated 14 May 2025 at p 37 line 30 – p 38 line 4 (ROA (Vol III) at pp 887–888).

81 ROA (Vol III) at p 776.

82 ROA (Vol III) at p 777.

of personal messages continued almost every day thereafter (including in early February 2021), and on a rather regular basis up till 2023. In the circumstances, I was not persuaded by the Husband's argument about the interpretation of the messages at [107(a)].

110 As for the messages at [107(b)] and [107(c)], these were equally unhelpful. The Wife's remarks about her parents' expectation that the Husband would call her on their wedding anniversary and/or when she fell ill did not necessarily mean that *the Wife* accepted parties were already separated by that stage. After all, such an expectation on the part of the Wife's parents could reasonably also have arisen in the context of an ongoing marital relationship between parties.

111 Having regard to the reasons set out at [97]–[110] above, I was satisfied that the evidence on record supported DJ Tay's finding the parties had *not* in fact been separated since 2018.

Issue (c): Whether the Husband's conduct in relation to the Visa Application Issue was unreasonable

112 In respect of Issue (c), this concerned the question of whether the Husband's conduct in relation to the Visa Application Issue was unreasonable. Having reviewed the evidence, I found that DJ Tay was also justified in finding that the Husband misled the Wife in relation to the Visa Application Issue, in that his behaviour gave the Wife "the belief and expectation" that "parties were planning for her relocation to the US as a married couple" and that he would apply for a US dependent pass visa for her, when in fact, he did not intend to do so (GD at [40]–[42]).[83] I agreed with the DJ that the Husband's behaviour would

[83] ROA (Vol I) at p 19.

have "undermined the [Wife's] trust in him" and led to her subsequently feeling betrayed when she finally discovered that he had no intention to apply for any such visa for her.

113 In this connection, a key piece of evidence against the Husband was his own admission at trial that as at August 2023, he had continued to give the Wife the impression that he was working to obtain a visa for her. This admission corroborated the Wife's evidence and the objective evidence of the parties' communications in August 2023. In gist, the Wife's evidence was that from early 2023, the Husband had given her numerous excuses as to why he had not yet applied for a US dependent pass visa for her: *inter alia,* he had claimed to be busy with work and with settling his personal affairs (including the acquisition of a vehicle and a home and then the renovation of his new home).[84] From the evidence on record, it was plain that the Wife became increasingly frustrated with the Husband's various excuses and delays, so much so that on 27 July 2023, she got solicitors to send him a letter about the matter. In this letter, her solicitors pointed out that the Husband had not yet commenced the application process for the Wife's dependent pass and informed him that if he did not proceed to do so, the Wife "[might] have no choice but to seek legal recourse, including but not limited to filing a Court application".[85]

114 In response to the solicitors' letter, the Husband emailed the Wife directly on 3 August 2023.[86] Tellingly, his response was *not* to make it clear to her that he had no intention to apply for a dependent pass for her. Instead, he stated that parties had both "changed as individuals over the last 9 years that

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84 Wife's AEIC at paras 160(a)–160(c) (ROA (Vol III) at pp 56–57).

85 ROA (Vol III) at pp 485–486.

86 ROA (Vol III) at p 489.

[they had] been living apart", that they "[saw] the world differently", and that they were "not compatible as a couple". He then claimed that it would be "illegal" for him to "sponsor a spousal visa": he explained this statement by claiming that he had "consulted a lawyer" in the US and found out that for a spousal visa application, they would need to "show evidence of common assets, investments, children and living together", when they were not even living in the same country. He ended the email by suggesting that parties "amicably go [their] separate ways".

115 As an aside, it should be noted that the Husband's statements in this email about parties being no longer "compatible as a couple", and his suggestion that they "amicably go [their] separate ways", constituted yet another piece of evidence militating against his assertion that parties had already been separated since the three-month Trial Separation in 2018. For the purposes of Issue (c), what was significant about this email was the Husband's failure to disavow any intention to apply for a dependent pass visa for the Wife. Instead, this email gave the impression that his delay in making such an application was due to concerns about "illegality" and "compatibility".

116 The Wife replied to the above email on the same day (3 August 2023), pointing out, *inter alia*, that the Husband had never previously brought up "illegality" as the reason for his inability to sponsor her visa. The Wife stated that she was stunned to hear the Husband now bringing this up as his reason and that she had no wish to do anything illegal. She then asked to speak to his lawyer so that she could understand what the lawyer had told him. In this email reply, the Wife also noted, *inter alia*, that their initial decision to live apart had been a "conscious decision from both of [them] … due to the expat position which [made] financial sense and later was a good opportunity for [the

Husband]".[87] Notably, in her email reply, the Wife asked bluntly for the Husband to make his position clear, stating:[88]

> You don't want to live with me, let's amicably find a solution to that, you don't want to pay for my DP [dependent pass], let's amicably find a solution to that, you don't want to give me a DP at all, let me understand why, with or without a mediator.

117 The Husband replied to the Wife's email on 4 August 2023.[89] Much of his email reply was taken up with an apparent critique of their relationship, in which he claimed, *inter alia*, that it was the Wife who had "made it quite clear that [she was] not interested in having [children] after [they] got married", and also sought to remind her of her previous actions in returning her wedding ring to him. For the purposes of Issue (c), what was significant about the Husband's email of 4 August 2023 was that despite the Wife having asked so bluntly for his position on the Visa Application Issue, he continued to prevaricate, claiming that "formally discussing with a US lawyer on visa…will cost money" and that he had not yet decided "if [he] want[ed] to take the step" because his "fundamental disconnect" was with how they defined "marriage beyond a certificate". He also accused the Wife of "using this [marriage] certificate to try to get what [she] want[ed], without caring about the institution of marriage". In short, up till the day before commencing divorce proceedings in India, the Husband failed to state expressly that he had no intention to apply for a dependent pass visa for the Wife. Indeed, he left matters open by claiming that he had not yet decided if he wanted to take the costly step of "formally discussing" the matter with a US lawyer.

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87 ROA (Vol III) at pp 492–494.

88 ROA (Vol III) at p 493.

89 ROA (Vol III) at pp 491–492.

118 Even after filing for divorce in India on 5 August 2023, the Husband continued exchanging messages with the Wife about matters related to applying for a dependent pass visa for her. On 13 August 2023, for example, in reply to a message from the Wife about the things required for the process of a dependent pass application ("We are doing this for the DP, hence we need to ensure that our process is sufficient to apply for one"), which apparently included "photo album", the Husband suggested that the two of them could go to a "photo studio" to have their pictures taken.[90] Further, in a number of the messages he sent the Wife on 14 August 2023, he alluded to his intention to speak to a lawyer or lawyers, stating that he was "thinking of picking one that works with foreigners" and that he would "need to be careful".[91] On 18 August 2023, the Wife pointed out that he had not approached "the two lawyers that [she] gave [him]": she suggested that he speak to them as well since they were "dependent pass lawyers", and while they "may know nothing about Japan", "at least it's contacts…given by people who know or used them".[92] In the messages they exchanged between 13 August 2023 and 18 August 2023, parties also discussed a draft affidavit which the Husband had apparently given to the Wife to affirm. The Wife's evidence was that the Husband had told her about his previous omission to notify his employer of his marital status: according to the Wife, the Husband had concerns about the disclosure of their marriage (which would presumably have to be made in a dependent pass application) jeopardising his employment and creating difficulties for him in Japan where he had previously worked and purchased a house.[93] The Wife's evidence was that the Husband had suggested she affirm an affidavit stating that she had abandoned him, so as to

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90 ROA (Vol III) at p 547.

91 ROA (Vol III) at p 227.

92 ROA (Vol III) at p 227.

93 Wife's AEIC at para 160(aa) (ROA Vol III at p 61).

furnish some justification for his previous omission to declare their marriage, and that he had provided the draft of such an affidavit for her to "tweak".[94]

119 I noted that the Husband gave a blanket denial of the above narrative by the Wife, but failed to provide any coherent explanation for the references in parties' messages to the Husband consulting "dependent pass lawyers" and the preparation of an affidavit for the Wife. More fundamentally, the Husband's communications with the Wife in the days following his filing of divorce proceedings in India omitted any mention that he had no intention to apply for a dependent pass for her. If anything, his communications with her during this period gave the impression that he was still trying to work out how to go about such an application.

120 In this connection, although the Husband claimed at trial to have verbally informed the Wife of his intention to file for divorce in India, there was no evidence to support his claim. I noted that in her email of 3 August 2023 to the Husband, the Wife stated that she had previously mentioned "going ahead with separation or divorce on a few occasions verbally" and that the Husband had apparently "shown [his] alignment" with such a suggestion.[95] Curiously, in his reply of 4 August 2023 (the day before he filed divorce proceedings in India), the Husband said nothing about his intention to file for divorce, stating only that he felt "compelled" to approach a lawyer since the Wife had already done so herself.[96] There was also nothing in parties' communications in the days leading up to and following 5 August 2023 to indicate that the Wife was aware of the Husband's intention to file for divorce in India.

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94 ROA (Vol III) at p 226.

95 ROA (Vol III) at p 492.

96 ROA (Vol III) at p 491.

121 As for the Husband's various other allegations against the Wife, these were either baseless or unhelpful to his case – or both. For example, the Husband alleged that in asking whether parties could reside separately in the US while still showing the same address for official purposes, the Wife was "actively" devising plans for him to mislead the US authorities.[97] Having considered the evidence of the parties' communications, I did not find there to be sufficient basis for finding that the Wife actively engaged in or attempted to engage in such deception. As I noted earlier, in her email of 3 August 2023, the Wife expressed surprise that the Husband had not said anything previously about it being "illegal" for him to sponsor her "spousal visa"; and in the same email, she made it clear that she had no wish to do anything illegal and also asked to speak to his lawyer to understand what the lawyer had told him. In my view, the messages referenced by the Husband were capable of supporting an inference that the Wife was coming up with suggestions in an attempt to understand the Husband's apparent inability to apply for a visa for her. As the Wife explained at trial,[98] between January and July 2023, parties had been "talking about ways to stay together … and … starting out with the application process [for the dependent pass]". She agreed with the Husband's counsel in cross-examination that during this time, she had felt some "resistance" from the Husband "in terms of allowing [her] to stay with him", but explained that she did not know why this was so, and that in suggesting that she rent a place of her own in the US, she was simply "throwing out ideas to understand where he was coming from".[99] More importantly, in any event, the Wife's conduct did not in any way explain – much less, negate – the Husband's own deceptive behaviour in allowing her

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97 AC at para 44.

98 NEs dated 14 May 2025 at p 14 lines 29–30 (ROA (Vol III) at p 864).

99 NEs dated 14 May 2025 at p 15 lines 10–17 (ROA (Vol III) at p 865).

to believe and expect that there were plans for her to relocate to the US and that he would seek to apply for a dependent's pass on her behalf.

122 The Husband also argued that the Wife had consistently placed pressure on him to apply for a visa and that any perceived evasiveness on his end was simply a "natural response" to this pressure.[100] I did not find any merit in this argument. The short point to be made here was that any such "pressure" from the Wife could have been avoided if he had simply told her that he had no intention of applying for a dependent pass for her – instead of giving the impression that he was trying to work out how to make the application.

123 In addition, the Husband argued that the Wife had admitted to harbouring a dream "since before marriage" to move to the US,[101] and that this admission suggested that she wanted to move to the US for her own reasons, as opposed to moving there to reunite with him.[102] Again, I did not find any merit in this argument. In the 3 August 2023 email in which she mentioned her "US dream since before marriage", the Wife also responded to the Husband's assertion (in his 3 August 2023 email) that they had changed as individuals by pointing out that "[a]ll people change as moulded by harsh realities of life, that is no reason to break a marriage". She also reminded the Husband of activities and/or trips they had engaged in since living apart from 2014 onwards, stating "[e]ach of these shows our constant interaction as a couple and plans to stay as one". The evidence of the Wife's communications with the Husband thus did not support the latter's argument that she wanted to move to the US for her own reasons and not to reunite with him.

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100 AC at para 45.

101 ROA (Vol III) at p 492.

102 NEs dated 4 February 2026 at p 20 lines 7–12.

124 Finally, the Husband argued that even if his behaviour in relation to the Visa Application Issue was found to be unreasonable, this amounted merely to "passive" conduct which was insufficient to warrant a finding that the Wife could not reasonably be expected to continue living with him. I found no merit in this submission. The Husband's attempt to characterise his conduct in relation to the Visa Application Issue as "passive and transactional" was completely contrary to the evidence on record, which showed that for months in 2023, he refrained from revealing to the Wife that he had no intention of applying for a dependent pass for her and even engaged in communications which would have led her to believe he was working on the application process. I agreed with DJ Tay that the Husband's behaviour over the Visa Application Issue amounted to misleading the Wife (see [43] of the GD).

125 To sum up, I found the Husband's arguments on Issue (c) to be devoid of merit. The evidence on record supported DJ Tay's finding (at [48] of the GD) that the Husband misled the Wife on the Visa Application Issue, concealed his true intention on the matter, and gave her the "false expectation and hope of relocating to the US to reunite with him". At trial, the Husband conceded that it was reasonable for the Wife to have felt "upset" when she discovered that he had never intended to apply for a visa for her.[103] With respect, to say that the Wife would have been "upset" by the eventual discovery of his duplicitous behaviour would be a regrettable understatement. I have outlined above the manner in which the Husband strung the Wife along for months in 2023 over the Visa Application Issue, even in the days leading up to and following his filing of divorce proceedings in India. Having regard to the extended period of dissimulation by the Husband, I had no doubt the Wife must have experienced

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[103] NEs dated 14 May 2025 at p 114 lines 1–4 (ROA (Vol III) at p 964).

a deep sense of betrayal when the truth finally came to light. As DJ Tay pointed out (at [48] of the GD), the Wife's trust in the Husband, her emotional stability, and her sense of security in their relationship would have been completely undermined when she came to be aware of his true intention. In my view, DJ Tay was fully justified in finding that the Husband's behaviour over the Visa Application issue was such that the Wife could not reasonably be expected to live with him.

Issue (d): Whether the Husband's actions (individually or cumulatively) amounted to unreasonable behaviour such that the Wife could not reasonably be expected to live with him

126 In respect of Issue (d), this arose from the Husband's submission that his behaviour in relation to the Visa Application Issue was simply "a single strand of conduct" which did not justify a finding that the Wife could not reasonably be expected to continue living with him. Again, given my finding that he deceived the Wife over an extended period of some months and that this represented the betrayal of her trust in him, I rejected the submission that his behaviour over the Visa Application Issue was insufficient to justify a finding that the Wife could not reasonably be expected to continue living with him.

127 In any event, I agreed with DJ Tay that the Husband's actions in relation to the Visa Application Issue amounted to secretive behaviour. Further, having reviewed the evidence on record, I was of the view that there was evidence of other instances of secretive behaviour on his part which – taken together with his conduct over the Visa Application Issue – justified a finding that the Wife could not reasonably be expected to continue living with him.

128 First, the Husband did not dispute that he had avoided disclosing his US address to the Wife. In the proceedings below, he took the position that this

refusal to disclose his US address was not unreasonable because – according to him – parties had already separated since 2018. As DJ Tay pointed out (at [45] of the GD), however, this argument by the Husband was unsustainable, since his case about the date and length of the parties' separation was not supported by the evidence. I agreed with DJ Tay that given the evidence of the parties' continuing marital relationship post-2018, the Husband's refusal to disclose his US address to the Wife amounted to secretive behaviour.

129 Second, the Husband did not dispute that in early 2021, he had terminated his life insurance policy (of which the Wife was the beneficiary) without telling the Wife,[104] and that when she found out about it in May 2021, she confronted him. His response to the Wife at that point was that he had "needed the money" and that the termination was a "temporary measure".[105] Whether or not this explanation was true was immaterial: what was material is that the Husband failed to disclose to the Wife an important financial decision he had made. With respect, DJ Tay's comment (at [46] of the GD) about the Husband having the discretion as the policyholder to deal with the policy as he saw fit missed the point. The point was that the decision to terminate the policy was one which had significant repercussions for the Wife – and the Husband failed to tell her about the termination either before or after its occurrence. This, in my view, also amounted to secretive behaviour on his part.

130 Third, it was the Wife's evidence that the Husband had provided her contact details to moneylending agencies when seeking loans from them, and that he had failed to inform her before doing so. Again, this was not seriously

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104 Husband's AEIC at para 55 (ROA (Vol III) at p 292).

105 ROA (Vol III) at p 256.

disputed by the Husband.[106] Instead, he tried to object to the Wife bringing up this conduct on the ground that she had not expressly pleaded it. I did not find any merit in this objection because the records of the proceedings below showed that the Wife did set out in her affidavit of evidence-in-chief her allegations about the Husband's actions in giving her contact details to moneylending agencies and that she clearly characterised his actions as another instance of "secretive" behaviour.[107] The Husband thus had every opportunity to respond to these allegations at trial – but did not. In my view, given the potential consequences for the Wife of having her contact details made available to moneylenders, the Husband's failure to forewarn her in advance was indeed yet another instance of secretive behaviour on his part.

131 In the proceedings below, the Wife accepted that despite the above instances of secretive behaviour, she might not have applied for judicial separation had it not been for the Husband's behaviour in relation to the Visa Application Issue.[108] On the evidence, I was satisfied that while the matters set out above at [128]–[130] might not have sufficed to support a writ of judicial separation grounded on s 95(3)(*b*) of the WC, when viewed together with the Husband's behaviour on the Visa Application Issue, they were relevant in revealing a tendency on the Husband's part to conceal from the Wife his true intentions or "agenda". Such behaviour, taken cumulatively, would have had the effect of undermining the Wife's trust in the Husband and in the security of their marital relationship. In other words, even if I were to accept the Husband's argument that his behaviour on the Visa Application Issue was only "a single strand of conduct" which did not in itself justify a finding that the Wife could

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106 DWS at para 30 (ROA (Vol IV) at pp 65–66).

107 Wife's AEIC at para 177(m) (ROA (Vol III) at pp 71–72).

108 NEs dated 14 May 2025 at p 8 lines 18–20 (ROA (Vol III) at p 858).

not reasonably be expected to live with him, there was enough evidence – cumulatively – of secretive behaviour on his part which justified such a finding.

Conclusion

132 To sum up, therefore: while DJ Tay erred in suggesting that the courts would be "less stringent" in their scrutiny of judicial separation applications (as compared to divorce applications), he did nonetheless apply the correct standard of proof in assessing the Wife's allegations in the present case. Based on the evidence adduced in these proceedings, DJ Tay was justified in rejecting the Husband's argument that parties had already separated since 2018, and in finding that the Husband's behaviour in relation to the Visa Application Issue was such that the Wife could not reasonably be expected to live with him. Further, and in any event, there was evidence of other instances of secretive behaviour on the Husband's part, which – viewed together with the evidence of his behaviour on the Visa Application Issue – amounted cumulatively to secretive behaviour such that the Wife could not reasonably be expected to live with him.

133 In the interests of completeness, I note that DJ Tay also concluded at [47] of the GD that there was no reasonable prospect of reconciliation in this case and that the parties' marriage had broken down irretrievably. For the reasons explained at [74] above, it is not necessary for the court hearing a judicial separation application to find that the marriage has broken down irretrievably before it can grant a judgment for judicial separation. In any case, I did not find it necessary to pronounce any findings on this aspect of DJ Tay's decision, as parties made no submissions on appeal in relation to this issue.

134 As the Husband failed to show any basis for appellate intervention with DJ Tay's decision to grant the judgment of judicial separation, I dismissed his appeal in its entirety and ordered that he pay the Wife the costs of the appeal (which costs I fixed at S$6,000 all-in).

Mavis Chionh Sze Chyi
Judge of the High Court

Low Jin Liang and Sabrina Chau Shu Ning (PKWA Law Practice LLC) for the Appellant;
Gloria James-Civetta, Chong Xinyi and Sheryl Keith Nuqui Sandhu (Gloria James-Civetta & Co) for the Respondent.