

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGHCF 29

District Court Appeal No 107 of 2024

Between

XFN

... Appellant

And

XFO

... Respondent

JUDGMENT

[Family Law] — [Matrimonial assets] — [Division]
[Family Law] — [Maintenance] — [Wife]

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XFN

v

XFO

[2025] SGHCF 29

General Division of the High Court (Family Division) — District Court
Appeal No 107 of 2024
Choo Han Teck J
29 April 2025

7 May 2025

Judgment reserved.

Choo Han Teck J:

1 This is an appeal by the Wife against the decision of the District Judge (“the DJ”) on the ratio of indirect contributions and the quantum of spousal maintenance. The Husband is a 46-year-old Singaporean and the Wife is a 39-year-old Singapore Permanent Resident (“PR”) and former Indian national. They have a 12-year-old Daughter. The Husband serves as a regular serviceman in one of the branches of the Singapore Armed Forces, earning a net monthly salary of \$5,212. The Wife is an administrative assistant at a Singapore hospital, earning a net monthly salary of \$2,340. They married on 5 July 2012, but the marriage ended on 18 July 2023 on the Wife’s application for divorce. Interim judgment (“IJ”) was granted on 11 December 2023.

2 For much of the marriage, the couple lived in the Husband’s parents’ flat (“the family home”), with domestic helpers engaged throughout the

marriage. The Wife could not get along with her mother-in-law, and the Wife moved out of the family home on 28 January 2017. The Wife claims that her mother-in-law locked her out of the flat, thereby evicting her. The Husband alleges that she picked a fight with his mother and left. His counsel, Mr Sarbrinder Singh, submits that the Wife had no legal right to reside in the family home.

3 The Wife then moved into the Housing Development Board (“HDB”) flat (“the matrimonial flat”) which the Husband had acquired shortly before she moved out of his parents’ flat. She lived there alone for six months, spending time with the Daughter whenever permitted by the Husband’s mother. Eventually, in July 2017, the Husband agreed to move into the matrimonial flat, but only if his parents moved in as well. The Wife agreed because she missed her Daughter.

4 This arrangement lasted for only a year. On 19 July 2018, the Husband and his family left the matrimonial flat, taking the Daughter with them. The Husband thus became the sole parent maintaining and caring for the Daughter from that time — when the Husband and Wife lived apart. The parties commenced various legal proceedings against each other, including cross-applications for Personal Protection Orders, divorce proceedings initiated by the Husband (which were dismissed), care and control applications filed by the Wife (resulting in shared care and control orders), and contempt proceedings filed by the Wife against the Husband for violating the care and control orders (wherein the Husband was found in contempt).

5 In 2020, the Husband petitioned the HDB to acquire the matrimonial flat because of financial difficulties which were exacerbated by the Wife’s refusal to rent out one of the rooms in the flat. This resulted in substantial arrears in

conservancy charges and loan instalment payments. The Wife has a different story. She did not rent out the room for her personal safety as she lived in the flat alone. She had informed the HDB that she was willing to repay the mortgage loan, but the Husband refused to add her name to the flat's title and instead purchased a plane ticket for her return to India. But around 7 June 2022 to 9 June 2022, the Wife settled the outstanding arrears (from June 2020) and maintained subsequent payments. In August 2022, however, HDB refunded all her payments because she was not entitled to make such payments without the sole owner's (her Husband) consent. Ultimately, the Wife was evicted from the matrimonial flat by HDB officers and police officers on 9 July 2024.

6 The DJ apportioned the parties' indirect contributions 60-40 in the Husband's favour. For the first five years of the marriage, the DJ allocated an equal contribution to both parties, as both were employed and supported by the Husband's parents and a domestic helper. The DJ gave the Husband greater recognition in terms of indirect contributions for the final three years post-separation, during which he served as the primary caregiver and sole financial provider for the child.

7 For the direct contributions, the DJ classified the matrimonial assets into two different classes – the first class consisting of the matrimonial flat, and the second class consisting of the parties' remaining assets in their own name and possession. The DJ found the Husband to be the sole direct contributor of the matrimonial flat. After taking into account the indirect contributions ratio and giving equal weightage to both direct and indirect contributions, the final division ratio for the matrimonial flat was 80-20 in the Husband's favour. The DJ did not make a finding on the net proceeds of the flat, as HDB had not yet paid out the moneys for the acquisition. As for the remaining assets, the direct

contributions ratio was 67.7-32.3 in the Husband's favour, and the final division ratio for those assets was 64-36 in the Husband's favour.

8 The DJ declined to award substantial maintenance to the Wife. The DJ reasoned that this was not a long marriage, the Wife received a fair share from asset division, she was employed and capable of self-support, and the share that she had to contribute towards child maintenance was not high. However, recognising her circumstances as a foreigner who relocated for the marriage and lacked local family support, the DJ preserved her right to nominal maintenance of \$1 per month for a transitional period of four years.

9 As regards the Daughter, the DJ ordered joint custody, with the Husband having interim care and control. The Wife was ordered to pay \$327 to the Husband as monthly child maintenance. On 14 April 2025, the DJ finalised the care and control and access orders, awarding sole care and control to the Husband and access to the Wife. These child-related orders are not disputed in this appeal.

10 The Wife's first point of appeal relates to the indirect contributions ratio. Her counsel, Mr Russell Thio, submits that she had endured significant hardships from her Husband and his family. The DJ had considered the hardships which the Wife endured pre-eviction when she awarded the parties an equal indirect contributions ratio for the first five years of the marriage.

11 As for the hardships the Wife endured after being evicted, Mr Thio submits that she had to live alone in an unfurnished HDB flat for six months. In 2018, when the Husband and his family left the matrimonial flat, he cancelled the water and electricity supply and attempted to force her to return to India by buying her an air ticket with her own money. Shortly after the Husband's

divorce proceedings were dismissed in August 2019, he petitioned HDB to compulsorily acquire the matrimonial home to render the Wife homeless for a second time. Mr Thio submits that since the Husband's conduct fundamentally undermined the co-operative partnership and harmed the Wife, a negative indirect contribution ratio of 10% should be ascribed to the Husband.

12 For the latter proposition, Mr Thio relies on *Chan Tin Sun v Fong Quay Sim* [2015] 2 SLR 195 (“*Chan Tin Sun*”) at [27] where the court held that if a spouse not only fails to contribute towards the marriage but engages in behaviour that harms the co-operative nature of the marriage and the welfare of the other partner, such conduct could be assessed as having a negative impact on the marital partnership's value. Hence, because the wife in that case systematically poisoned her husband, the court applied a discount of 7% to the wife's share. The court accepted that the discount might well have been greater, but fixed it at 7% because “the DJ's award was already at the low end of the range”: *Chan Tin Sun* at [55] and [58]. It is clear that the appropriate negative value in any given case depends on the facts.

13 Mr Singh defends the DJ's decision to award the Husband a 60% share of the indirect contributions. After the Husband moved out of the matrimonial flat with the Daughter on 19 July 2018, the Wife ceased providing financial support to the Husband and his family from August 2018. There was no evidence that the parties contributed to each other's life after that date. As the DJ found, the Husband was the Daughter's sole caregiver during the remaining years of the marriage — the Wife did not participate at all. All this was not disputed by the Wife. However, Mr Singh's arguments overlook a crucial fact — that the Husband had directly prevented the Wife from caring for the Daughter. After removing the Daughter from the matrimonial flat, the Husband and his family denied the Wife access to the Daughter, and was committed for

contempt of court in consequence. He cannot rely on his own misconduct to claim a greater share of indirect contributions.

14 The Husband had also caused prejudice to the Wife by inducing HDB to acquire the matrimonial flat. Despite the Wife's willingness and attempts to service the mortgage loan, her repayments were refunded because she was not a joint lessee. The Husband's refusal to either add her name to the title or let her repay the loan, led directly to the eventual forfeiture of the matrimonial home, thereby depriving the Wife of the higher proceeds that an open market sale would have yielded. Although the Wife did not contribute towards repaying the loan prior to June 2020, this had already been accounted for in the direct contributions ratio for the matrimonial flat. The Wife's reluctance to rent out a room in the matrimonial flat was also plainly reasonable given that she was a sole occupant.

15 I am thus minded to ascribe a negative value of 10% to the Husband's indirect contributions. However, Mr Singh raises two objections. First, he argues that the Husband's alleged misconduct does not cross the threshold of "extreme" and "undisputed" conduct (see *Chan Tin Sun* at [25]). He submits that this case pales in comparison to *Chan Tin Sun*, where the wife acted criminally against her husband. Second, he contends that a 10% negative value to the Husband's indirect contributions share is excessive when compared to *Chan Tin Sun*, where only 7% was deducted from the wife's share.

16 Mr Singh's second argument is misconceived, as the 10% adjustment to the indirect contributions amounts to only a 5% difference in the overall ratio in this case (see [6] above and [18] below). In any event, the appropriate adjustment depends on the facts (see [12] above). This limits the usefulness of direct numerical comparisons between cases.

17 As for Mr Singh's first argument, although the Husband's misconduct may not amount to a criminal act, I find that ascribing a 10% negative value to his share of the indirect contributions remains justified. To begin with, the Husband does not deserve full credit for being the Daughter's sole caretaker, when he himself deliberately prevented the Wife from caring for her. This self-created advantage, coupled with his actions in inducing HDB to re-acquire the matrimonial flat, warrants the 10% adjustment.

18 Mr Thio submits that the indirect contributions ratio should be 50-50, with the negative value applied to achieve a 40-60 ratio in the Wife's favour. I disagree. The negative value of 10% adequately addresses both the Husband's actions that obstructed the Wife from caring for the Daughter, and the prejudice she suffered from the HDB's re-acquisition of the matrimonial home. After accounting for the negative value, the indirect contributions ratio is thus reduced from 60-40 to 50-50. There is no need to deduct an additional 10% from the Husband's indirect contributions. Therefore, the overall ratio for the matrimonial flat is 75-25, and the overall ratio for the remaining assets is 59-41, both in the Husband's favour.

19 The Wife's second point of appeal concerns spousal maintenance. Mr Thio submits that by awarding the Wife with nominal maintenance of \$1 for a period of four years, the DJ did not adequately consider the Wife's need for accommodation. As a Singapore PR, the Wife is not entitled to purchase any subsidised housing on her own and would have to either purchase a resale flat or private accommodation, or rent a flat. Her share of the matrimonial assets is insufficient to purchase a HDB resale flat, let alone private accommodation. She has no choice but to rely on rental housing until she has accumulated enough savings to purchase her own home. Because the Wife is unable to rent nor purchase suitable housing, the DJ erred by not ordering maintenance sufficient

to place her in a position similar to what she enjoyed during the marriage, when she had a house to live in. Further, the DJ said she preserved the nominal maintenance “so that [the Wife] can transition from the divorce and rebuild her life”. A \$1 nominal maintenance order is contrary to the DJ’s stated intention, given the Wife’s status as a foreigner without family support. The Wife thus prays for monthly spousal maintenance of \$2,500 for four years.

20 Mr Singh submits that the Wife does not require substantial maintenance. He distinguishes this case from *TAG v TAH* [2015] SGDC 25, where the wife needed to find housing for herself, her child and a helper and was therefore granted a \$10,000 lump sum maintenance. In this case, the Wife needs accommodation only for herself, making her proposal of \$2,500 a month (totalling \$120,000 over four years) excessive. The Wife, being gainfully employed, has not shown that her salary is insufficient to meet her reasonable monthly expenses including housing costs, or that she has exhausted all means to find accommodation. For example, the Wife could have written to HDB for special permission to rent a one-room flat. Appellate intervention is thus not warranted in adjusting the nominal maintenance fee of \$1.

21 Mr Singh further submits that the DJ was correct to merely preserve the right of the Wife to apply for substantive maintenance should the need arise in the future. Finally, he cites *ADB v ADC* [2014] SGHC 76 at [10], where I held that “the idea that maintenance is an unalloyed right of a divorced woman is an idea borne from the time when women were housewives living on the maintenance of the men”. In my view, the Wife in this case will receive 25% of the proceeds from the matrimonial flat along with over \$52,000 from the Husband as her share of the remaining assets. The District Judge’s finding that the Wife received a fair share of the matrimonial assets, and her decision not to award substantive spousal maintenance, cannot be said to be manifestly wrong.

22 As for the DJ’s order of \$1 monthly maintenance, this appears to have been made to preserve the Wife’s right to apply for maintenance in the future, following the Court of Appeal decision of *APE v APF* [2015] 5 SLR 783 (“*APE v APF*”). However, I see no practical distinction between an order for no maintenance and one for nominal maintenance. An order that says “no maintenance” is still “a subsisting order for maintenance” under s 118 of the Women’s Charter 1961 (“WC”). In any event, the court can order a man to pay maintenance to his former wife even subsequent to the grant of a judgment of divorce (s 113(1) of the WC), which includes the time after divorce proceedings are concluded. The latter point was mentioned but not addressed in *APE v APF*. Hence, an order of no maintenance would not preclude a wife from applying for maintenance in the future. However, as the Court of Appeal has held otherwise, I will leave the \$1 order intact. It is a sum as inconsequential in substance as it is in appearance.

23 I make no order as to costs.

- Sgd -
Choo Han Teck
Judge of the High Court

Thio Guan Yee Russell (Emerald Law LLC) for the appellant/wife;
Sarbrinder Singh s/o Naranjan Singh and Nicholas Say Gui Xi
(Sanders Law LLC) for the respondent/husband.