IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGHCF 39

District Court Appeal No 20 of 2025 and Summons No 145 of 2025

Between

XJO

… *Appellant*

And

XJP

… *Respondent*

JUDGMENT

[Family Law — Matrimonial assets — Division]

XJO
v
XJP and another matter

[2025] SGHCF 39

General Division of the High Court (Family Division) — District Court Appeal No 20 of 2025 and Summons No 145 of 2025
Choo Han Teck J
22 May 2025

26 June 2025 Judgment reserved.

Choo Han Teck J:

1 The appellant husband and the respondent wife married on 9 June 2001 and they have a 23-year-old daughter. The appellant, aged 55, runs a company selling furniture, lighting equipment and other household appliances (the "Company"). He claims to earn an average monthly salary of $1,500 but the respondent disagrees and asserts that he earns at least $3,300 a month as he has other sources of income. The respondent, aged 57, is a part-time service crew, earning a monthly income of $2,330. She used to work at the Company from 2001 to 2011 and subsequently from 2018 to 2020. Their marriage lasted approximately 23 years and interim judgment was granted on 11 March 2024. The ancillary matters were decided by the District Judge ("DJ") on 3 February 2025. The appellant now appeals against the DJ's decision on the division of matrimonial assets.

2 The issues on appeal relate to: (a) the apportionment of direct contributions (including Central Provident Fund ("CPF") funds) towards the matrimonial home; (b) the valuation of the appellant's 245,048 shares in the Company; (c) the purported undisclosed rental proceeds earned by the respondent; (d) the DJ's decision to draw an adverse inference against the appellant for his failure to disclose his patent; and (e) the parties' respective indirect contributions to the family. The appellant also argues that an adverse inference should be drawn against the respondent.

3 Preliminarily, the appellant has applied *vide* HCF/SUM 145/2025 ("SUM 145") to adduce the following documents as fresh evidence: (a) a CPF Application for Withdrawal under the Public Housing Scheme dated 7 June 2001 ("CPF Withdrawal Form"); (b) the Company's profit and loss statements and balance sheet for 2024; (c) photographs of the rooms in the matrimonial home; (d) a WhatsApp message exchange between him and the parties' daughter; and (e) photographs of two patents owned by him. He also sought leave in SUM 145 to raise a new point in paragraph 5.4 of the appellant's case filed on 7 April 2025 ("Appellant's Case"). This was regarding a sum of $43,200 purportedly paid into the respondent's CPF account when she was employed at the Company. The appellant claimed that the $43,200 was his direct contribution as the respondent was employed by his firm.

4 On 7 April 2025, the appellant's counsel filed his core bundle comprising entirely of fresh evidence (the "Core Bundle"). The respondent's counsel then wrote to the appellant's counsel on 9 April 2025 to seek confirmation that they would be seeking leave from the court to introduce the new point in the Appellant's Case and adduce fresh evidence in the Core Bundle. However, the appellant's counsel claimed that it was not necessary as the documents were not fresh evidence. The Assistant Registrar ("AR")

determined on 13 May 2025 that the documents in the Core Bundle were in fact fresh evidence as they were not filed in any of the affidavits in the lower court. She directed the appellant's counsel to file their summons application to adduce fresh evidence with a supporting affidavit and written submissions by 5pm on 16 May 2025, failing which the appellant would be deemed not to be filing the application. The respondent's counsel was to file their reply submissions by 12pm on 20 May 2025 for the hearing before me on 22 May 2025.

5 The appellant filed SUM 145 and his supporting affidavit on 15 May 2025 as directed, but did not file his written submissions by 5pm on 16 May 2025. He only filed his written submissions on 19 May 2025 at 2.51pm and furnished a copy to the respondent's counsel by email at 4.34pm on the same day. In his written submissions, he abandoned his point regarding the $43,200 that was allegedly paid by the Company to the respondent's CPF account. Instead, he introduced a new argument, namely, that a $30,000 Housing Development Board ("HDB") grant awarded to the respondent ought not to be attributed to her as her direct contribution. This point was not raised in the lower court, the Appellant's Case nor in SUM 145. And no leave of court was obtained to raise the new point. I will disregard the appellant's counsel's submissions on this point.

6 The entire SUM 145 must be dismissed for the appellant's failure to comply with court directions and the procedural irregularities in filing the court documents. Due to the appellant's late filing of his written submissions, the respondent had been prejudiced as she had less than 24 hours to respond to his claims. The appellant even tried to raise an entirely new argument concerning the $30,000 HDB grant three days before the scheduled hearing. In any event, there are no merits in SUM 145.

7 The CPF Withdrawal Form, photographs of the rooms in the matrimonial home and photographs of the two patents could have been obtained with reasonable diligence for use at the ancillary matters hearing. By the appellant's own testimony, he procured the CPF Withdrawal Form "when [he] attended at the HDB branch". Similarly, the photographs of the matrimonial home and the two patents could easily have been taken any time before the ancillary matters hearing. More importantly, the evidence would not have an important influence on the result of the case as they do not support the appellant's assertions. The CPF Withdrawal Form shows that the $30,000 housing grant was credited to the respondent and the appellant has not explained why it ought not to be attributed to the respondent. The photographs of the matrimonial home merely show that there were four bedrooms. They are not determinative of the number of rooms actually rented out and the corresponding rental proceeds earned. As for the alleged WhatsApp message exchange with the daughter, the appellant wants to adduce it to prove that the daughter has confirmed that three bedrooms were rented out for a period. However, it cannot be proven that the sender of the message was indeed the daughter. Even if it was, the messages are hearsay as the daughter has not been called to testify in these proceedings. There is also no proof that the Company's 2024 financial statements were not available at the time of the ancillary matters hearing. Therefore, notwithstanding the procedural irregularities, SUM 145 ought to be dismissed for its lack of merits.

8 The first issue on appeal relates to the parties' respective direct contributions to a HDB flat purchased in joint names on 1 July 2001 (the "matrimonial home"). It was purchased for $357,500 and the parties took out a housing loan of $241,500. Two of the bedrooms were rented out and a total of $59,784.26 from the rental proceeds was paid towards the housing loan. This

sum was equally attributed to both parties. As such, the DJ found that the appellant had paid a total of $179,528.73 ($149,636.60 in CPF and $29,892.13 in cash from January 2013 to February 2024), whereas the respondent had paid a total of $222,271.45 ($191,302.85 in CPF, $1,076.47 in cash from April 2024 to 28 October 2024 and $29,892.13 in cash from January 2013 to February 2024). The ratio of direct contributions towards the matrimonial home was thus 44.7:55.3 in the respondent's favour.

9 The appellant says that the respondent used $86,720.21 from her CPF (after selling her HDB flat from her previous marriage) to pay for the initial down payment of the matrimonial home, whereas the appellant only used $34,920 from his CPF for the initial down payment. The relevance of this information is unclear as the appellant does not seem to be disputing the exact CPF contribution from each party. The source of the CPF moneys is immaterial and what matters is the amount contributed by each party, which had already been determined by the DJ. The appellant also says that the monthly loan instalment of $967 was paid in the proportion of 52% by the appellant and 48% by the respondent *via* CPF deductions. He claims that he did not have sufficient moneys in his CPF account and the shortfall was made up from the cash deducted from the parties' joint UOB account. He says that the apportionment of the cash contributions should be the same as their CPF contributions and thus the overall contribution ought to be 52:48 in the appellant's favour.

10 The appellant's claims are unsubstantiated by evidence. The documentary evidence does not show that the CPF contributions were paid in that proportion throughout the tenure of the loan. Neither did the parties have any agreement to that effect. The appellant has also not explained why it should be assumed that the parties' cash contributions are in the same proportions as their CPF contributions. In any event, regardless of the quantum of monthly

payments made by each party, what matters is their overall CPF contribution towards the matrimonial home. To this end, the DJ rightly relied on the parties' CPF statements in determining their overall CPF contributions. Apart from that, the DJ found that there was insufficient evidence to precisely establish each party's respective cash contributions towards the mortgage loan instalments. The monthly rental proceeds would have on average more than covered the monthly cash payments needed to service the loan and therefore, the sum of $59,784.26 which was paid from the rental proceeds was rightly attributed equally to both parties. In the circumstances, I see no reason to disturb the DJ's findings.

11 The next issue concerns the valuation of the appellant's 245,048 shares in the Company. The DJ valued these shares by taking into account the Company's financial statements for 2021, 2022 and 2023. The average equity value of the Company over the three years was $48,758 (rounded off). As the total number of shares in the Company was 310,000, each share was valued at $0.156. The appellant's 245,048 shares were therefore valued at $38,542. Although there appear to be minor discrepancies in these calculations, they are largely immaterial to the outcome.

12 The appellant's position is that the DJ's method of valuation was erroneous. He claims that the basis of valuation "when the Company only buys and sells hardware" is wrong and that since the "Company's business has been on the decline, the value of the shares based on tangible assets would be incorrect". He also claims that the Company's 2024 balance sheet shows that the net asset value and total equity is negative 47,862. According to him, this means that the value of the appellant's 245,048 shares should be nil. The appellant cites *XIK v XIL* [2025] SGHCF 16, where the parties adduced a joint

expert valuation which allowed the court to determine the value of the company. He says that in this case, there was "no proper valuation of the shares".

13 In my view, the DJ could not be faulted since the financial documents were not available to her at the time of the ancillary matters hearing. In fact, she had expressly noted the absence of the Company's 2024 financial statements and chose to consider the average of the net asset value from 2021 to 2023 for fairness. Furthermore, the respondent had requested the appellant to provide a valuation of his Company shares but he was of the view that "a valuation [was] not necessary and/or in any event such valuation would be in the negative". I agree with the respondent's counsel that the appellant cannot now assert that he was prejudiced by the absence of an expert valuation after he chose not to obtain one at the ancillary matters hearing. There is nothing wrong with the DJ's method of valuing the appellant's shares by calculating its net asset value, especially since the appellant's counsel himself had submitted at the hearing below that a value of $26,966 be prescribed to the appellant's shareholding by taking the net asset value of the Company in 2023. As the respondent rightly pointed out, the courts may, and do, obtain an estimated valuation of the shares in a company by taking the average of the net asset value from the financial statements. Accordingly, the DJ's findings should remain.

14 Additionally, the appellant claims that the shares should not even be considered a matrimonial asset as he "did not use the corporate bank account to manage the company expenses as well as his personal expenses or contributions" and the respondent did not allege that "she had contributed to the Company or that the Company had been used to pay for the household expenses". The appellant's explanations are irrelevant to the question of whether the Company shares ought to be considered matrimonial assets. Any asset acquired during the marriage is generally considered a matrimonial asset:

see s 112(10) of the Women's Charter 1961 (2020 Rev Ed). The appellant, being the party who asserts that an asset is not a matrimonial asset, bears the burden of proving this assertion: see *USB v USA and another appeal* [2020] 2 SLR 588 at [31]. Unless he can show that the shares were acquired before the marriage or by gift or inheritance, there is no reason to exclude them.

15 Next, the appellant says that there are excess rental proceeds that were unaccounted for by the DJ. According to the appellant, the parties rented out three rooms in the matrimonial home at an average total rent of around $2,200 a month between January 2010 and December 2018. At the hearing below, the respondent explained that the matrimonial home only had three bedrooms. Given that the respondent and the daughter had been living there throughout 2010 to 2018, they could not have at any time rented out three bedrooms. The DJ accepted the respondent's position that she received an average of $1,200 to $1,500 rental proceeds monthly during that period as they were corroborated by the HDB's Enquiry on Rental Records ("HDB Records").

16 On appeal, the appellant wants to adduce photographs of the matrimonial home to show that there were in fact four bedrooms, as well as an alleged WhatsApp message from his daughter confirming that three rooms were rented out. For the reasons above (see [4]–[7]), the evidence has been rejected. The appellant claims that when he was studying for his doctorate degree in China between 2011 and 2017, the respondent and the daughter occupied the master bedroom, and the other three rooms were rented out. Based on this, he estimates that the respondent would have collected rental proceeds of about $237,600 ($2,200 x 108 months) from January 2010 to December 2018. The appellant states that the respondent would have been able to keep about $129,600 ($237,600 less $108,000) from the rental proceeds given that the household expenses and housing loan did not exceed $1,000 a month.

Thereafter, the daughter was given her own bedroom when she turned 16 years old. As such, only two rooms were rented out between January 2019 and August 2022 at an average rent of $1,600 a month. He again estimates that the respondent collected $70,400 ($1,600 x 44 months) rental proceeds. With their household monthly expenditure not exceeding $1,000, the respondent would have retained $26,400 ($70,400 less $44,000).

17 The appellant further argues that the HDB Records relied upon by the DJ were "inconclusive and incomplete" because they did not indicate the number of rooms rented out from 2012 to 2020. He claims that the listings were only for tenants who were work pass holders and required by law to register their tenancy. Therefore, the total unaccounted rental proceeds of $156,000 should be added into the pool of matrimonial assets and attributed to him as his direct contributions.

18 In my view, the appellant's calculations are based on unsubstantiated estimations and assumptions. Even if it were true that the matrimonial home had four bedrooms and only the master bedroom was occupied from January 2010 to December 2018, he has no proof that all three rooms were in fact rented out throughout that period. The appellant tries to rely on *WVS v WVT* [2024] SGHC(A) 35 at [18], where the Appellate Division held that if rental proceeds were proven to have been spirited away or concealed in order to deprive the other spouse of a share in them, they may be added back into the pool in appropriate circumstances. However, the appellant has not adduced any evidence of the respondent's receipt of the alleged sums of rent, much less her purported dissipation or concealment of the rental proceeds. In the circumstances, there is no reason to overturn the DJ's findings based on the appellant's speculation.

19 The next issue relates to the DJ's drawing of an adverse inference for the appellant's failure to disclose his patent. The appellant has two patents which he claims had always been pasted on the wall of the matrimonial home. They are two QR codes that he had personally created. He registered one patent in China (the "China Patent") and the other in Singapore (the "Singapore Patent") in 2019. He deregistered the China Patent in 2023 but kept the Singapore Patent by paying the yearly fee of $430.

20 In giving the respondent an uplift in her share, the DJ found that the appellant had never disclosed the existence of the Singapore Patent. The appellant explained that he did not disclose the Singapore Patent because it had no value. The DJ held that the onus was on each party to make full and frank disclosure of all their assets and it was not for the appellant to make his own determination as to the relevance of an asset. The respondent also did not provide evidence to support his assertion that the Singapore Patent had no value.

21 On appeal, the appellant maintains that the value of the Singapore Patent is nil as it is not licensed for commercial use to a third party nor utilised by the appellant. The appellant further contends that the Singapore Patent is his personal creation of a QR Code and should not be considered a matrimonial asset as the respondent did not show why the Singapore Patent should be deemed a matrimonial asset. He also says that the respondent was long aware of the Singapore Patent as it had always been displayed in the matrimonial home, but she chose to only mention it in her second affidavit of assets and means. He says that she could have requested for a valuation of the Singapore Patent and that he did not have the opportunity to respond to her allegations regarding the value of the Singapore Patent. He cites *UTN v UTO and another* [2019] SGHCF 18 ("*UTN v UTO*") at [95], where the court did not draw an adverse inference against the wife for her alleged failure to make full and frank

disclosure of her employee pension plan as the husband did not request for her to produce it during the discovery and interrogatories stage.

22 First, the onus is not on the respondent to prove that the Singapore Patent is a matrimonial asset. In general, all the parties' assets will be treated as matrimonial assets unless proven otherwise. As explained above at [14], the burden is on the appellant to prove that the Singapore Patent is not a matrimonial asset, and in this case, he has not adduced any evidence to prove his assertion. Second, in the case of *UTN v UTO* (at [31]), the husband had alleged without any documentary evidence that the wife had an employee pension plan. The wife, however, denied having such a pension plan and the husband did not discharge his burden of proving its existence. That case differs from the present one, where the appellant himself has admitted that he owns the Singapore Patent and has in fact tried to adduce photographs of it. There is thus no doubt that the Singapore Patent exists, and that the appellant failed to disclose it during the ancillary matters proceedings. Third, it is not true that the appellant had no opportunity to respond to the respondent's allegations on the value of the Singapore Patent. The appellant could have provided evidence on the valuation of the Singapore Patent with the leave of court but he did not. I therefore find that there is no reason to disturb the DJ's drawing of an adverse inference against the appellant.

23 The appellant also takes issue with the DJ adding $38,542 (being the estimated value of his Company shares) into the pool and attributing this sum as his direct contributions. He says that the DJ was wrong to have drawn an adverse inference against him as he never withheld disclosure of the Company shares. The appellant's argument appears to be misconceived — the DJ had merely estimated the value of the Company shares based on the financial statements and added this sum into the pool of matrimonial assets.

24 Next, the appellant contends that an adverse inference should instead be drawn against the respondent for her non-disclosure of their UOB joint account and the excess unaccounted rental proceeds. I have already addressed his allegations on the purported excess unaccounted rental proceeds at [15]–[18] above. The appellant's position is that the UOB joint account statements ought to have been disclosed by the respondent as they would have indicated how much rental proceeds were deposited into the account and whether they came from two or three tenants. In response, the respondent explains that she was unable to retrieve the UOB joint account statements as the account had been closed. She says that in any event, the appellant could have retrieved the statements had he wished to as he was a joint account holder and always had access to the account. In fact, he had retrieved the statements from January 2021 to April 2024 and the statements showed a steady monthly rental income from one tenant until September 2023. The bank statements also indicated that the rental income was utilised to pay for their household expenses and the housing loan.

25 Overall, there is no evidence to show that the respondent had concealed assets. An adverse inference may only be drawn where there is enough evidence to establish a *prima facie* case against the person whom the inference is to be drawn, and that person had particular access to the information he or she is said to be hiding: see *UZN v UZM* [2021] 1 SLR 426 at [60]. Even if UOB had sent the respondent hard copies of the bank statements, it is not unreasonable that she did not keep them in the context of this case. The appellant himself had access to the statements that he claimed the respondent was hiding from him. There is thus no basis for any adverse inference to be drawn against the respondent.

26 The final issue on appeal is the DJ's determination that the ratio for indirect contributions was 40:60 in the respondent's favour. The appellant's counsel submits that the indirect financial contributions ought to be 72:28 in the appellant's favour as he was the primary breadwinner operating his own business whereas the respondent was earning no more than $1,500 a month. The appellant claims that he spent about $150,000 on the family for expenses such as their house items, home maintenance, the daughter's personal items and her tuition fees. He does not dispute that the respondent made greater indirect non-financial contributions, which he concedes ought to be 40:60 in the respondent's favour. His position is that the overall indirect contributions should thus be 56:44 in his favour.

27 The appellant's counsel's submissions are plainly wrong in law. The Court of Appeal in *TNL v TNK and another appeal and another matter* [2017] 1 SLR 609 (at [47]) has expressly stated that the determination of the parties' indirect contributions under the *ANJ v ANK* [2015] 4 SLR 1043 ("*ANJ v ANK*") approach should not be further broken down into two sub-steps such that separate ratios are assigned to indirect financial contributions and indirect non-financial contributions. Indeed, it was also held in *ANJ v ANK* (at [24]) that the values ascribed to the parties' indirect contributions "is necessarily a matter of impression and judgment of the court" and the court does not indulge in "any mathematical calculation because often there is very little concrete evidence to be relied upon".

28 In any event, I am of the view that the DJ was right in finding that the parties contributed almost equally in terms of indirect financial contributions, and the respondent contributed more in terms of indirect non-financial contributions. Although the appellant had greater financial means, he has repeatedly claimed that the rental proceeds were sufficient to cover the housing

loan instalments and the household expenses. By his logic, there was thus very little that he had to contribute out of his own pocket. The respondent disagrees that the rental proceeds were sufficient but says that she bore the bulk of the expenses using her income from her part-time jobs, particularly when the appellant was studying in China. Most of the appellant's claimed contributions of $150,000 are unsupported by documentary evidence. I am thus of the view that the DJ's findings were entirely reasonable and ought not to be disturbed.

29 For the reasons above, the appeal is dismissed in its entirety. Parties are to file their submissions on costs within 14 days of this judgment.

- Sgd -
Choo Han Teck
Judge of the High Court

Chitra Balakrishnan (Legal Matrix LLC) for the appellant;
Lim Yan Yao Bill and Desiree Ang Li Jun (Kalco Law LLC) for the respondent.