

Koh Mui Noi v Tan Tian Seong
[2006] SGHC 141

Case Number : D 47/2003

Decision Date : 07 August 2006

Tribunal/Court : High Court

Coram : Woo Bih Li J

Counsel Name(s) : Vincent Yeoh (Vincent Yeoh & Co) for the petitioner; Ng Pui Khim and Devi Vasantha Haridas (P K Ng, Haridas & Partners) for the respondent

Parties : Koh Mui Noi — Tan Tian Seong

Family Law – Maintenance – Husband contending wife's right to claim maintenance due to her working capacity – Whether wife having undeclared source of income – Whether wife entitled to lump sum maintenance

7 August 2006

Woo Bih Li J:

1 The parties, Tan Tian Seong ("the Husband") and Koh Mui Noi ("the Wife"), were married on 9 April 1984. They have three sons with the following ages:

- (a) the eldest child - 18 years old (as at 27 April 2004)
- (b) the second child - 16 years old (as at 27 April 2004)
- (c) the third child - 15 years old (as at 27 April 2004).

2 The ages of the parties, also as at 27 April 2004, were:

- (a) the Husband - 53 years old
- (b) the Wife - 55 years old.

3 Due to differences between the parties, they led separate lives since mid-1998 and seldom spoke to each other except on matters relating to the children or to finance. A domestic maid did the laundry and cleaning of the matrimonial home which was 53 Serenade Walk ("the matrimonial home"). The Wife's sister, Koh Khar Noi ("KKN"), did the marketing and cooking with the assistance of the maid.

4 Eventually the Wife presented a divorce petition on the ground of separation for more than four years. A decree *nisi* was granted by the court on 5 March 2004. The ancillaries were heard by

me.

5 As regards the matrimonial home, KKN claimed a 27.8% interest therein. The Husband initially acknowledged KKN's interest but changed his position because he said he was misled into thinking that KKN had been paying for part of the mortgage instalments.

6 Mr Vincent Yeoh, counsel for the Wife, submitted that KKN's claim was not part of the ancillaries to be determined as between the Husband and Wife. He also submitted that I should make an order regarding the sale of the matrimonial home and direct the setting aside of 27.8% of the net sale proceeds pending a subsequent resolution of KKN's claim in respect of the matrimonial home. This approach was not contested by the Husband's counsel, Ms Ng Pui Khim and Ms Devi Haridas. In any event, I agreed that KKN's claim was not part of the ancillaries to be determined by me.

7 On 5 May 2006, I made various orders on the ancillaries. The main orders were:

(a) Custody, care and control of the three children would be granted to the Wife with reasonable access to the Husband.

(b) The Husband was to pay maintenance for the children as follows:

- (i) the eldest - \$550 (comprising \$400 + \$500 - \$350 from National Service) per month
- (ii) the second - \$1,200 (comprising \$700 + \$500) per month
- (iii) the third - \$1,700 (comprising \$1,200 + \$500) per month. This included tuition fees.

The first component for each child was for his personal expenses and the second component was fixed at \$500 per month for his share of the household expenses.

(c) The Husband was to pay maintenance of \$350 per month for the Wife.

(d) Maintenance for the Wife and for the children was to commence from 1 May 2006, a date which counsel did not object to.

(e) After setting aside 27.8% for KKN's claim of an interest in the matrimonial home, I granted the Wife 36% of the balance and the Husband 64%. Consequential orders were made regarding the sale of the matrimonial home. Details of the consequential orders are stated in my oral judgment of 5 May 2006 and I need not repeat them here.

(f) Of the other matrimonial assets, I found the Husband to hold assets amounting to \$494,881.72 and the Wife to hold assets amounting to \$136,253.65. I granted the Wife 40% and the Husband 60% of the aggregate of the other matrimonial assets and made consequential orders thereon. Again, details may be found in my oral judgment.

8 Each party was dissatisfied with certain aspects of my decision and has appealed in respect of those aspects.

Custody, care and control of the three children

9 My decision on the matter of custody, care and control of the children was made by

consent. The Husband did not seek joint custody but only reasonable access. Accordingly, this matter is not the subject of either party's appeal.

Maintenance

10 The Husband is dissatisfied with the maintenance orders I made for the three children while the Wife is dissatisfied with the maintenance order I made for her. Therefore, there are cross-appeals in respect of maintenance.

11 I will elaborate on my decision for the maintenance of the Wife first.

12 The Husband was working as an accountant with Sing Lin & Company Pte Ltd. According to the Wife's calculation, the Husband's net income, after taking into account bonuses and his own contribution to his Central Provident Fund ("CPF") account and some share dividends, was around \$7,710 per month. The Husband's calculation indicated his net income was, say, \$6,960 per month in 2004 (Year of Assessment 2005). The difference between the Wife's calculation of \$7,710 and the Husband's calculation of \$6,960 may have been due to the fact that Mr Yeoh had not taken into account that there is a cap on the amount of bonuses which attract a contribution to CPF.

13 The Wife sought \$1,494.70 per month as her personal expenses which were:

Handphone	\$30.00
Cosmetics	\$50.00
Hairdo	\$60.00
Medical and dental checkups	\$50.00
Gastric medicine	\$31.20
Chinese medicine	\$200.00
Shoes and handbags	\$40.00
Clothing	\$50.00
Car - Petrol	\$300.00
Road tax	\$65.50
Insurance	\$78.00
Servicing	\$60.00

	Parking	
and	electronic	\$80.00
	road	
pricing ("ERP")		

Family	entertainment,	\$400.00
holidays	and	
miscellaneous		

\$1,494.70

14 The Husband's response to such personal expenses was as follows:

(a) The handphone was a luxury item as he himself did not carry one. Moreover he had not been asked to pay for the Wife's handphone bills during the marriage.

(b) He had never paid for the Wife's cosmetic expenses nor her handbags, shoes and clothes.

(c) The sum claimed by the Wife for medical and dental check-ups was excessive. He worked out a reasonable sum to be \$14.58 per month. I do need to elaborate on the formula he used. The Husband also said he was not aware that the Wife was suffering from gastric pains and there was no documentary evidence of expenses for gastric medicine (although she appeared to have claimed and been paid the same before).

(d) The Husband did not contribute to the acquisition of the car. He used to reimburse the Wife for petrol charges as she was ferrying the children to and from school. However, the children had become old enough to take public transport. As for the road tax, servicing and insurance, the Husband said he had not been asked to pay for the same before.

(e) The Husband considered the sum claimed for parking and ERP to be high. The family stayed in a landed property and he was not aware of the Wife having to drive under ERP gantries to do household chores. I noted he did not elaborate whether she had to go through such gantries while fetching the children to and fro. Nevertheless, the Husband also said that the Wife often drove KKN to various places.

(f) The Husband also said he had not been paying for the Wife's holiday and entertainment expenses and he required elaboration of the miscellaneous expenses claimed.

15 If the Husband was required to pay the Wife's personal expenses, he was prepared to pay only \$44.58 a month since he had not been paying for most of the items claimed during the marriage.

16 As for the share of each member of the family for household expenses, the Wife had set out a list of such expenses amounting to \$3,525.20 per month for six persons *ie*, the Husband, the Wife, the three children and KKN. She suggested that this sum be divided by six to reach an average of, say, \$558.00 per person. The Husband, however, considered some of the sums claimed to be unnecessary or excessive. He was also suggesting that the household expenses such as food and groceries be divided by seven, including the maid, but the rest should be divided by four namely the Wife and the three children. Based on the Husband's calculation, the household expenses for four

persons would amount to \$950.65 which worked out to, say, \$238.00 per person per month. This, however, was on the basis that he was also of the view that it was unnecessary to provide for a maid as the children were no longer young. I set out below his tabulation of the Wife's claim, then the Wife's claim if based on a household of four persons and then his position based on four persons.

S/N	Item	Wife's position	Wife's position, but based on a household of four persons	Husband's position
1.	Stationery	\$20.00	\$13.33	Nil
2.	PUB	\$250.00	\$166.66	\$100.00
3.	Telephone	\$30.00	\$20.00	\$20.00
4.	Gas	\$57.00	\$38.00	\$38.00
5.	Max-Online & SCV	\$93.20	\$62.13	Nil
6.	Food	\$1,650.00	\$942.00	\$500.00
7.	Groceries	\$750.00	\$428.57	See food
8.	Newspaper	\$24.00	\$16.00	\$16.00
9.	Air-con servicing	\$10.00	\$6.66	\$6.66
10.	Termite inspection	\$20.00	\$13.33	\$13.33
11.	Crockery	\$10.00	\$6.66	\$6.66
	Maid			
12.	- levy	\$345.00		
13.	- salary	\$230.00		
14.	- medical	\$230.00		

15.	- handcream	\$6.00		
16.	- agency fee	\$10.00		
17.	- air ticket	\$20.00		\$250.00
	Total:	<u>\$3,755.20</u>		<u>\$950.65</u>

17 It seemed to me that although the children were not young any more, the Husband should not exclude expenses in relation to the maid since he also expected the Wife to go back to work part-time, if not full-time. Also, as Mr Yeoh stressed, the Wife was already not claiming rent for alternative accommodation although the matrimonial home was to be sold. In the circumstances, I was inclined to allow more of what the Wife was claiming as household expenses and I determined a reasonable sum, for maintenance purposes, to be \$500.00 per month for each of the Wife and the three children.

18 If I allowed the Wife's personal expenses as claimed by her, *ie*, \$1,494.70 per month and add her share of \$500.00 per month as household expenses, the aggregate would be just below \$2,000.00 per month. This is not much if compared with the Husband's assessment of his average monthly expenses of \$3,080.00, which comprised the following:

Food and living expenses	\$600.00
His parents (although he has other siblings)	\$400.00
Transport (public transport)	\$200.00
Utilities (anticipated)	\$80.00
Telephone, cable TV and Broadband Internet bills	\$100.00
Rentals	\$1,200.00
Entertainment and recreation (including wedding dinners)	\$150.00
Clothes and shoes	\$50.00
Income tax	\$300.00

\$3,080.00

19 I was of the view that as the Wife was not claiming rental, the Husband should also not be claiming rental. The matrimonial home was to be sold and with reimbursement to his CPF account and since he was going to reach 55 in 2006 soon after the hearing before me, he would be able to withdraw some moneys from his CPF account. If she was to work, she too would have to pay taxes just as he would have to do. If his rental and income tax were excluded, his monthly expenses would be $\$3,080.00 - \$1,500.00 = \$1,580.00$, much less than the Wife's $\$2,000.00$ per month because the Wife would have to maintain a maid and was also maintaining a car. In any event, the Wife was only claiming $\$1,494.70$ per month for her personal expenses because she was not claiming maintenance for her share of household expenses. The reason why I have spent some time on the household expenses is because she is claiming the children's share of household expenses which I shall come back to later. The Wife was also seeking lump sum maintenance for herself with a multiplier of 11 years or 132 months, relying on a few case law authorities. This would work out to $\$1,494.70$ per month $\times$ 132 months = $\$197,300.40$.

20 On the other hand, the Husband's position was that the Wife should not be given any maintenance in view of her earning capacity or, alternatively, nominal maintenance.

21 The main issue in respect of maintenance for the Wife was her earning capacity. The Husband said that the Wife was a fully qualified, London-trained beauty therapist. She was a full-time beautician before the marriage and had, during the marriage, been working as a part-time beautician, until she said she stopped working around 2001, ie, three years before his first affidavit of 27 April 2004. On the other hand, the Wife said that she had completely stopped working as a beautician in 1986 after the birth of the first child and, at her age of 55 in 2004, she would not be able to obtain employment, whether full-time or part-time.

22 There was in evidence some statements of account relating to the Wife's CPF account. They showed that there were some contributions to that account in the second half of 1992 and for 1993 up to January 1994. Her employer was stated to be The Blue Angels – Hairstylist and Beautician. When the Wife was confronted with such evidence during her cross-examination and asked whether she had received her half-yearly CPF statements, she promptly claimed that she had received the statements of account when the Husband showed them to her solicitors. This prompted her own counsel, Mr Yeoh, to stand up and clarify, as he should, that it was he who had applied for such statements pursuant to an earlier order of court. It seemed to me that the Wife's response in respect of how she received such statements demonstrated a lack of credibility on her part.

23 The Wife also sought to rely on an affidavit by Mdm Wong Ah Khew (alias Wong Peng Khew) who was operating the salon in question from November 1977 to May 1994. Mdm Wong denied that she had made any contribution to the Wife's account between 1992 and 1994. I considered the CPF statements of account to be more reliable evidence than Mdm Wong's affidavit.

24 I also noticed that para 9 of the Wife's fifth affidavit of 20 July 2005 suggested that the credits in her CPF statements of account might have been due to the Husband making such payments for "purposes best known to him" because she believed she had given blank cheques to the Husband in the past. I was of the view that this was a desperate suggestion in the face of the documentary evidence against the Wife. There was no reason for the Husband to make payments into her CPF account, let alone to do so without informing her. Besides, those payments would have been reflected as debit entries in her bank statements and she was not the sort of person who would have sat

quietly by without seeking an explanation. I therefore rejected such a suggestion.

25 Furthermore, the Husband said that the tax returns submitted for the Wife indicated she had been earning employment income up to about 2001. The income tax assessments for the Wife from Years of Assessment 1987 to 2001 showed her annual employment income to vary between \$12,000 and \$24,000 a year. The Wife's position was that she had left it to the Husband to fill up the joint income tax returns as he was the accountant. She found tax matters too complicated for her. Yet, she admitted that she had signed the tax returns which had to be submitted before the assessment was done and she did not claim to have signed the tax returns while they were blank or incomplete.

26 I noted that the Wife was not the simple person she portrayed herself to be. For example, she used to set out in detail items of expenses for each month when she was seeking reimbursement from the Husband in the past. I did not think she was as much in the dark about her income tax returns as she claimed. When she signed the tax returns, she must have realised what her annual employment income was stated to be. Indeed, the Husband's position was that it was she who told him what her annual employment income was.

27 Besides, there was no logical reason for the Husband to declare employment income for her if in fact she was not earning the same. It would have been foolish of him to attract tax on her declared employment income if in fact she had no employment income. Furthermore, as he asserted, he was also denying himself the opportunity to claim wife relief by declaring that she was earning employment income. Mr Yeoh must have realised the weakness of the Wife's position in the light of the income tax returns and assessments. Accordingly, he suggested that the Husband had continued to declare the Wife's employment income over several years because the Husband had to satisfy a mortgagee of the matrimonial home that both the Husband and the Wife were employed in order that the mortgagee would not withdraw a loan granted in 1986 or 1987. The Husband denied this. Moreover, there was no independent evidence to show that the couple were in arrears of their mortgage instalment payments or that the mortgagee required annual proof of dual income before allowing the loan to continue. It seemed to me that Mr Yeoh's suggestion was borne out of desperation in the face of the tax returns and assessments.

28 Thirdly, the Wife's Post Office Savings Bank ("POSB") passbook showed that, for example, between January 2000 and May 2000, there were various cash deposits therein ranging from \$500 to \$10,000, if the smaller deposits are ignored. Paragraph 6 of the Wife's affidavit of 16 June 2004 stated that the deposits of \$500, \$5,000 and \$10,000 in late February 2000 belonged to KKN. The Wife alleged that she and KKN were out then and the moneys were deposited into the Wife's POSB account for convenience, since KKN did not have her passbook with her. That was why the moneys were withdrawn soon after the deposits were made. This explanation suggested that all the three deposits were in cash but that was not the case. Two were transfers from another account and one was a cheque deposit for \$10,000. Furthermore, in cross-examination, the Wife gave a different explanation. She said that the deposits were repayments by a cousin who had borrowed money from KKN. The cousin had handed cash to the Wife which the Wife had deposited into her own POSB account first. This explanation did not satisfactorily explain transfers of moneys from an account to the Wife's account or the cheque deposit. The Wife tried to explain the transfers from another account to hers by saying that she and this cousin were very close and this cousin had her account number to transfer moneys to. Interestingly, KKN had said in para 3 of her 16 June 2004 affidavit that the deposits of \$500, \$5,000 and \$10,000 into the Wife's POSB account towards end February 2000 were moneys which she (and not the Wife) received from the cousin Koh Cheng Chang who had borrowed the sums earlier from her (KKN). KKN said that, for convenience, KKN had deposited the cash or cheque into the Wife's POSB account first but this explanation was contradicted by the fact that the deposits of \$500 and \$5,000 in late February 2000 were inter-bank transfers as I have said.

Furthermore, there were other deposits of \$1,000 to \$5,000 between January 2000 and May 2000 for which no explanation was given by the Wife. Therefore, I did not accept KKN's or the Wife's explanation in respect of the three deposits they chose to respond to.

29 The Wife had also sought to rely on an affidavit from the eldest child stating that he was not aware of his mother having worked part-time or full-time after he was born. I did not give any weight to his assertion in the light of the CPF statements and income tax returns and assessments which he was obviously unaware of. The Wife should not have involved him on this issue.

30 It seemed to me that the Wife had another source of income which she was not prepared to admit to.

31 In the light of the documentary evidence, it was immaterial that the Husband did not have more information about the Wife's past employment. I was persuaded that, notwithstanding her age, the Wife had a capacity to earn income of between \$1,000 and \$2,000 even if she was able to get part-time work only. Since she was claiming maintenance of \$1,494.70 per month only, I was of the view initially that she should be able to maintain herself, especially if I were to order the Husband to maintain the children without any contribution from her. Therefore, I considered initially whether I should allow her only a nominal sum of \$1.00 maintenance to preserve her claim for maintenance in the future for herself. However, the Husband had at one time offered the Wife \$350.00 per month for herself even when their marriage was deteriorating. At that time the Wife had declined the offer for a reason which I need not elaborate on. In the light of that offer, I ordered the Husband to pay maintenance of \$350.00 per month for the Wife from 1 May 2006. He is not appealing against this aspect of my decision but the Wife is, as presumably she wants more.

32 In the circumstances, the question of a lump sum maintenance of the quantum sought by the Wife was academic. In any event, the Husband himself is getting on in years. He alleged that he would retire when he reached 60 years of age under "current employment rules". It was not clear to me whether he meant the rules of his employer or rules under legislation. In any event, it seemed to me preferable to order maintenance for the Wife on a monthly basis so that subsequent developments may be taken into account, if necessary. There was also no suggestion that the Husband would default in his maintenance obligation if he was gainfully employed.

33 The dispute regarding the quantum of the maintenance for each of the children centred on two main points, *ie*, whether the maintenance should include tuition fees for the third child and the quantum of the household expenses.

34 In principle, I saw no reason why the tuition fees for the third child should be disallowed when the Husband had paid for such fees prior to the filing of the divorce petition. In the case of the eldest child, the tuition fees of \$1,100.00 per month were no longer relevant because he was no longer schooling and was doing his National Service, earning \$350.00 per month. I did take into account the latter and reduced the maintenance for him accordingly.

35 In the case of the second child, there was no tuition fee, as such, to be considered and so no dispute in respect of his personal expenses.

36 The tuition fees for the third child amounted to \$950.00 per month and I allowed this in addition to other personal expenses. Accordingly I ordered \$1,200.00 per month maintenance for his personal expenses.

37 As for the household expenses, the Husband's position was that they amounted to \$950.65

for the reasons I have given. Divided between the Wife and three children, this worked out to, say, \$238.00 per person. He was prepared to pay the following maintenance for each of the children (*ie*, for the personal and household expenses of each):

- (a) \$300.00 for the eldest child,
- (b) \$600.00 for the second child, and
- (c) \$500.00 for the third child.

The above figures were taken from the submission for him and were higher than what he had initially offered in paras 15 to 17 of his second affidavit of 18 May 2004.

38 The above figures from the written submission did not elaborate on how the Husband had added up the personal expenses and household expenses for each child. For example, he had accepted that the personal expenses for the second child were \$687.50 per month. Even if I were to accept his calculation of \$238.00 per month for each child's household expenses, the total for the second child's maintenance would be, say, \$925.00 per month and not the \$600.00 per month he had offered.

39 However, from the Husband's affidavits, I learnt that he was suggesting that in addition to the Wife not receiving any maintenance, the Wife should also contribute to each of the children's maintenance. However, the Husband did not elaborate as to how much she should contribute. Working backwards in the case of the second child, it seemed, for example, that he was suggesting that she should contribute \$325.00 per month, if I accepted his figures. Working backwards, she would also have to contribute between \$300.00 and \$400.00 for the eldest child and even more for the third child since the tuition fees alone for the third child (which he refused to pay for) amounted to \$950.00 per month.

40 As I have mentioned above, I determined each child's share of the household expenses to be \$500.00 and not \$238.00 per month. This meant that if I allowed the Husband to pay what he proposed in submission, the Wife would be bearing the greater part of the burden of maintaining the children even though it was not suggested that her earning capacity was as great as his.

41 I found the Husband's proposal for maintenance for the children unreasonable, especially when he was also proposing no maintenance for the Wife. Furthermore, he used to hand over about \$4,000 per month at one time to the Wife for various expenses. This figure of about \$4,000 was found in some hand-written notes on pieces of paper which the Wife gave him to claim each month's allowance from him.

42 As the Husband was to pay only \$350.00 per month maintenance for the Wife and bearing in mind his larger earning capacity and what he used to provide, I was of the view that he was able to afford and should fully maintain each child based on (a) the undisputed figures for their personal expenses, (b) my allowance of tuition fees for the third child and (c) my determination that each child's share of household expenses was \$500.00 per month. The actual maintenance for each child is already stated in [7(b)] above and I need not repeat it. The total, including the maintenance for the Wife, is still less than \$4,000.00 per month.

Matrimonial assets

43 I come now to the division of matrimonial assets. The parties dealt with the matrimonial home

separately from the rest of the matrimonial assets ("the other matrimonial assets"). This has been a common practice in divorce proceedings and I proceeded along the same lines. On further reflection, I wonder whether such an approach should be adopted for other divorce proceedings and whether a better approach would be to consider the matrimonial home together with the other matrimonial assets. For example, it may be fortuitous whether a wife uses her money to pay proportionately more for the monthly instalments on a mortgage than for household expenses or *vice versa*.

44 Coming back to the case at hand, the financial contribution by each party to the acquisition of the matrimonial home was largely undisputed save for a down payment of \$132,900.00. The down payment was paid by a cheque issued on the Wife's bank account but the dispute was as to who had provided her with the moneys to make that payment.

45 The Husband's position was that he had provided the moneys from his savings. He had put the moneys into the Wife's account because at that time he did not have an account from which he could issue cheques. Hence, whenever he wanted payments to be made by cheque, he would deposit the cash into the Wife's account and she would issue the cheque for the requisite amount. He illustrated this by exhibiting documents in relation to a separate transaction.[\[note: 1\]](#)

46 Interestingly, when Mr Yeoh applied in chambers to cross-examine the Husband, Mr Yeoh informed me that one of the issues on which the Husband was to be cross-examined was the source of the moneys for the down payment. Yet, when the Husband was being cross-examined, Mr Yeoh refrained from cross-examining the Husband on this issue. This was not an oversight because I remember that I had asked Mr Yeoh in open court whether he was going to cross-examine the Husband on this issue (in view of what he had informed me in chambers). Mr Yeoh said he was not. Indeed, upon hearing my query, the Husband indicated that he would welcome any question on this issue but Mr Yeoh did not take up the challenge. I drew an adverse inference from Mr Yeoh's omission. I also considered the Husband's willingness to be questioned on this issue to be persuasive of the fact that he was telling the truth.

47 However, that was not all. When the Wife was cross-examined on her source of moneys for the down payment, she said that the moneys were given to her by her late mother who did not give her the moneys in a lump sum but in various sums. There was a dispute as to whether her mother had the mental capacity to do so as, according to the Husband, her mother was already suffering from dementia when they were married on 9 April 1984 whereas the matrimonial home was purchased in 1989. I did not have to decide whether the mother had the mental capacity to give the sums of money alleged because I was not persuaded by the Wife's explanation, in cross-examination, that her mother gave her the sums of money to look after another sister who was mentally retarded, *ie*, one Koh Mui Tiam who passed away in January 2003. If the Wife's explanation were true, then she would not have used the moneys to buy the matrimonial home but to look after Mui Tiam, even if Mui Tiam was to stay with the couple at the matrimonial home. I mention this only because I note that para 21 of the Husband's first affidavit of 27 April 2004 and para 11 of the Husband's sixth affidavit of 22 August 2005 mention that the Wife's late sister had lived with them. However, the Wife did not assert in affidavit or in cross-examination that she had used the moneys meant for the care of Mui Tiam to pay the down payment because Mui Tiam would be living with them. Furthermore, if the down payment was to be some sort of investment for Mui Tiam in the matrimonial home (which the Wife again did not allege in any event) the Wife would have told the Husband of this just as the Husband was told of KKN's interest in the matrimonial home.

48 Accordingly, I found the Husband's explanation to be more credible and I accepted that the moneys for the down payment came from him.

49 There was a minor difference on the monthly instalments paid by the Husband. To Mr Yeoh's credit, he was prepared not to take issue with the minor difference alleged in the Husband's figures which credited the Husband with having paid \$2,197 more than the Wife's calculation of his contribution. In the circumstances, I found that the Husband's direct financial contribution to acquire the matrimonial home to be:

- (a) from his CPF account - \$317,872.90
 - (b) the down payment - \$132,900.00
- \$450,772.90

50 Excluding a payment made by the Wife which was allegedly for KKN's interest and which interest would be dealt with separately in another forum, I found that the Wife's direct financial contribution in respect of the matrimonial home, and not confined to the acquisition thereof, to be:

- (a) from her CPF account - \$20,000.00
 - (b) repairs and improvements - \$10,519.25
- \$30,519.25

51 The Husband did not dispute the amount the Wife said she had spent as repairs and improvements but suggested that this should not be taken into account as he too had made payments towards repairs and improvements. I did not doubt that the Husband had also paid for repairs and improvements but he did not provide any specific evidence for such payments. For direct financial contribution, I had to disregard whatever he might have contributed towards repairs and improvements but I did not disregard the Wife's claim for the same.

52 The total of the Husband's and the Wife's financial contributions in respect of the matrimonial home was therefore \$481,292.15. Of this, the Husband provided, say, 94% (actually 93.66%) and the Wife, say, 6% (actually 6.34%).

53 I also had to consider the Wife's indirect contribution because it was not disputed that she was the primary caregiver in respect of the three children. In the circumstances, it is not necessary to elaborate on allegations made by the Wife and the eldest child to show how distant the Husband was as a father which the Husband had sought to counter. Even if he could or should have spent more time with the children, he did provide for them and the Wife financially. I hasten to add that I am not suggesting that it is good enough for a man to provide financially for his family. As the saying goes, there are some things which money cannot buy. Having said that, I am not saying that the Husband was totally distant. Suffice it for me to say that I found that he was not close to the children. However, I also took into account that I was not able to give him any credit for his financial contributions to repairs and improvements for the matrimonial home and that the Wife had the assistance of a maid and her sister (KKN) for the household chores.

54 All things considered, I was of the view that after leaving aside 27.8% to be determined later in respect of KKN's interest, it would be fair to give the Wife an additional 30% of the balance of the matrimonial home. With her direct contribution of 6%, her aggregate share amounted to 36% and the Husband's would correspondingly be 64%. I would add that Mr Yeoh had asked for a lower figure of 20% for the Wife's indirect contribution. I did not hold him to this because his submission appeared to be premised on the basis that the Wife would succeed on her assertion about the source of the

moneys for the down payment and hence increase her share of the financial contribution in respect of the matrimonial home. In future, counsel will have to be more careful as the court may not grant such indulgence always. Having said that, I would add that Mr Yeoh was, generally speaking, quite a formidable opponent to the Husband's counsel.

55 The Husband's counsel also relied on three District Court cases to submit that the parties' CPF accounts should be reimbursed first from the sale proceeds and then the net balance be distributed according to the shares I was allowing to each of the couple. Suffice it for me to say that those cases were peculiar to their facts and the general rule in the division of matrimonial assets is not consistent with the approach advocated. Indeed, if the parties' CPF accounts were reimbursed first, there would be some double-counting as I have already taken into account, *inter alia*, the payments made from their CPF accounts in determining their respective shares of the matrimonial home.

56 I come now to the other matrimonial assets. I found such assets held by the respective parties to be as follows:

Husband

CPF account	\$271,649.84
Shares from CPF Investment Scheme	\$156,469.00
POSB	\$29,485.65
Other listed shares	\$4,777.23
Painting	<u>\$32,500.00</u>
	<u>\$494,881.72</u>

Wife

POSB	\$1,471.69
CPF	\$10,470.30
Shares	\$5,767.00
Car (after allowing for some depreciation)	\$24,000.00
Jurong Country Club Social membership	\$1,300.00

Jewellery	\$9,000.00
One NTUC Life insurance policy No 0061112636	\$64,870.00
Four AIA insurance policies	<u>\$19,374.66</u>
	<u>\$136,253.65</u>

I did not treat other NTUC policies and a Prudential policy as matrimonial assets as they were educational policies. The Wife was to continue paying the premiums for those NTUC policies and the husband was to continue paying the premiums for the Prudential policy. The moneys payable on the maturity of those policies were to be held in trust for the education of the child concerned. I left it open to the parties to argue whether such policies should be taken into account in any future application for variation of maintenance.

57 The total of the other matrimonial assets was:

\$494,881.72	+	= \$631,135.37
\$136,253.65		
Husband's portion was, say, 78%	(actual was 78.41%)	
Wife's portion was, say, 22%	(actual was 21.59%)	

I adjusted the above portions to take into account the Wife's indirect contribution as the primary caregiver of the children so that the Wife was given 40% of the total of the other matrimonial assets and the Husband was given 60%. Rounded to the nearest dollar, 40% was \$252,454.00. After deducting, say, \$136,254.00, being those assets held by the Wife, the Husband was to give the wife \$116,200.00. The Husband was allowed to pay the \$116,200.00 to the Wife from his share of the sale proceeds of the matrimonial home after setting aside a portion of the sale proceeds attributable to the alleged share of KKN and paying off a bank loan secured by the matrimonial home. I also made consequential orders in respect of the sale which are found in my oral judgment.

58 There was no dispute on the other matrimonial assets held by the Husband.

59 The values of the Wife's assets were provided mainly from her. The Wife alleged that her shares, car, club membership and the NTUC Life insurance policy No 0061112636 were paid from money given to her by a deceased brother. The onus was on the Wife to establish her assertion and I was not persuaded she had done so.

60 As for her jewellery, she claimed that she did not buy any and all were given to her by her mother. The Husband, however, said that he knew the Wife had bought diamonds. There was more jewellery in a safe deposit box in Oversea-Chinese Banking Corporation Limited ("OCBC") in the joint names of the Wife and KKN which was said to belong to KKN solely except for some coins therein which the Wife had bought for the children. The jewellery in the box comprised one pendant, one ring, two bracelets and three necklaces. The Wife did not provide any value for such jewellery. I found it

hard to believe that the Wife did not buy any jewellery. In any event, I was of the view that it would be fair if I treated all the jewellery she had declared as hers, although allegedly given by her mother, as part of the pool of matrimonial assets and leave out the rest of the jewellery in the joint safe deposit box from the pool.

61 The Wife and KKN held a joint account with OCBC which had a closing balance of \$226.77 as at 13 July 2005 and a joint account with POSB with a closing balance of \$1,444.45 as at 30 June 2005. The amounts involved were relatively small and in view of the joint assertions that the moneys in these two accounts belonged to KKN solely, I did not include these two accounts in the pool.

Reimbursement

62 The Wife also wanted the Husband to reimburse her for a list of expenses between 2001 and 2004 for which she said she had borrowed money from KKN to pay. Her notice of appeal to the Court of Appeal does not appear to include my disallowance of this claim. As a matter of caution I will also deal with it. The expenses were:

a	Eldest child's tuition for February, March, April 2004	\$3,300.00
b	SP Services utilities bill dated 31 April 2004, leakage at underground service pipe	\$1,434.25
c	Replacement of one set National air-conditioner on 9 August 2003	\$1,550.00
d	Repair toilet cistern on 17 September 2002	\$65.00
e	Tan Tock Seng Hospital A&E and X-ray on 8 December 2002	\$70.00
f	Supply and installation of fabric and canopy on 7 October 2001	\$2,000.00
g	Painting works on house (after 13 years) on 3 October 2001	\$4,300.00

h	Repair and replacement of kitchen cabinet door/table top on 17 September 2001	\$ 1,170.00
i	Singapore Cable Vision Ltd installation of cable in 1999	\$2,351.00
j	SP Services	\$865.82
	Total:	\$17,106.07

63 The Husband's responses to the claim for reimbursement were as follows:

- a. I reiterate paragraph 11 of my affidavit herein. I only agreed to my eldest son taking an intensive revision course or he should approach his teachers if he does not understand his subject;
- b. The high amount was due to water leakage caused by a non-functioning solar water heater. This was installed by the Petitioner's sister who had failed to maintain it. I had raised objection to the Petitioner's sister installing it on the roof because of the risks of water leaking and damaging the roof. Nevertheless, I have paid the costs of \$300.00 to repair the leakage apart from the monthly utilities bill I have to pay for the Petitioner's sister;
- c. Replacement of the air-con in the dining room was done without my knowledge. The place is also where the Petitioner's sister's friends and relatives congregate. It was installed mainly for the Petitioner's sister's benefit. It is airy if all sliding doors are open and I have purchased a fan to circulate the air in the room.
- d. The Petitioner's sister should pay this repair of the toilet cistern cost as I had paid for many other repairs;
- e. The Petitioner has been paying her own medical expenses and should continue to pay herself;
- f. Replacement of the canopy was done without my agreement or knowledge. The idea and decision to put up the original canopy were made by the Petitioner's sister whom [*sic*] had paid for it;
- g. House painting was done without my agreement. I have told the Petitioner's sister I would do touch-up on the house which I have done before;
- h. Repair and replacement of kitchen furniture and fittings were done without my knowledge and agreement;
- i. The installation of the SCV was done for the benefit of the Petitioner's sister who is the only one who has the facility to watch cable TV channels in her room. I had specifically objected

to its installation because there were more than enough normal TV channels to watch and

j. Again, the unusually high [bill] was due to water caused by a non-functioning solar water heater that was installed by the Petitioner's sister who failed to maintain it. I had raised objection to her installing it on the roof [because] of the risks involved. Nevertheless, I have paid the Petitioner's sister the monthly utilities bill.

64 I accepted the Husband's explanation but had some doubt for item (a) which was tuition for the eldest child. As mentioned above, I was of the view that his obligation to maintain the children should include their tuition fees, if reasonably incurred. Nevertheless, this item had not been claimed under maintenance and it also seemed to me that the Wife had accepted that the Husband was not paying for these three months as there was no elaboration from her as to why she was not claiming future tuition fees for the eldest child in 2004. In the circumstances, I disallowed her entire claim for reimbursement and did not make any order for the Husband to pay the same.

65 I should add that I did prepare a draft oral judgment which I read to counsel. The draft was a summary of the orders I intended to make and of the reasons. I also took the liberty of giving counsel a copy thereof for their consideration. This was so that they could point out any obvious or inadvertent error I might have made. Having received their subsequent responses orally, for which I am grateful, I finalised the draft judgment which I have referred to herein as my oral judgment.

[\[note: 1\]](#) See the Husband's 3rd affidavit of 21 June 2004 at para 27.

Copyright © Government of Singapore.