

ATS v ATT
[2011] SGHC 213

Case Number : DT No 3595 of 2009
Decision Date : 22 September 2011
Tribunal/Court : High Court
Coram : Belinda Ang Saw Ean J
Counsel Name(s) : Koh Tien Hua (Harry Elias Partnership LLP) for the plaintiff; Bernice Loo and Lim Ai Min (Allen & Gledhill LLP) for the defendant.
Parties : ATS — ATT

Family Law

[LawNet Editorial Note: The appeal to this decision in Civil Appeal No 51 of 2011 was allowed in part by the Court of Appeal on 6 February 2012. See [\[2012\] SGCA 22.](#)]

22 September 2011

Belinda Ang Saw Ean J:

1 The Plaintiff wife (“the Wife”) filed for divorce on 16 July 2009 after 15 years of marriage to the Defendant husband (“the Husband”) on the grounds that he had behaved in such a way that she could not reasonably be expected to live with him. The Interim Judgment of Divorce was granted on 6 October 2009, and the ancillary matters fell to be determined over five separate days of hearing. Orders relating to custody, care, control of and access to the three children of the marriage were made on 6 August 2010. Notably, at the hearing on 6 August 2010, the parties agreed to joint custody of the children, with care and control to the Wife, and an order in terms was duly granted. The Husband was given access to the children within the framework of a defined set of liberal and flexible arrangements, to wit:

- a. Dinner with the children once a week during the weekdays;
- b. Alternate weekends overnight from Friday 6 pm to Sunday 6 pm;
- c. Half of the children’s school holidays with liberty to bring the children overseas. In the event that an overseas holiday is intended, the [Husband] is to notify the [Wife] at least 14 days before the date of departure. In the event that the [Wife] intends to bring the children overseas, the [Wife] is to notify the [Husband] at least 14 days before the date of departure.
- d. Alternate public holidays, and

e. Any other access to be agreed between the [Wife] and the [Husband].

2 Orders on maintenance for the Wife and children, and the division of the matrimonial assets were made on 22 March 2011, and they included the following matters:

(1) The Wife shall transfer all her rights, interest, and title in the property known as and situated at [address redacted] ("the DDD property") to the Husband. The Husband shall pay for the outstanding monthly mortgage repayments towards the discharge of the mortgage loans secured on the DDD property. The Husband shall bear the costs and expenses relating to the aforesaid transfer.

(2) The Husband shall transfer all his rights, title, and interest in the property known as [address redacted] ("the MMM property") to the Wife. The Wife shall pay for the outstanding monthly mortgage repayments towards the discharge of the mortgage loan secured on the MMM property. The Wife shall bear the costs and expenses relating to the aforesaid transfer. The moneys withdrawn from the Husband's CPF Account are not refundable to the Husband or to the Husband's CPF Account upon transfer of the Husband's share of the MMM property to the Wife.

(3) The Wife shall transfer all her rights, interest, and title in the property known as [address redacted], Malaysia ("the [Malaysian] property") to the Husband. The Husband shall bear the costs and expenses relating to the aforesaid transfer.

(4) Both parties are to close the following joint investment/bank accounts and there shall be no distribution of moneys, if any, left in the following accounts:

- (i) DBS Vickers JDNL Account;
- (ii) Saxo Bank Investment Account;
- (iii) UOB Investment Account;
- (iv) SCB Current Account;
- (v) UOB I Account;
- (vi) OCBC Easicredit Account;
- (v) SCB Credit Account.

(5) Each party is to retain all other assets in his or her respective sole names.

(6) The [Husband] shall pay maintenance to the [Wife] in the sum of \$8,400.00 a month which sum is to be deposited into the Wife's DBS account no [xxxxxxxx]. The first payment is to be made on 1 April 2011. A breakdown of the said sum of \$8,400.00 is as follows:

- (i) the sum of \$2,500.00 for the Wife's personal expenses;
- (ii) the sum of \$900.00 for the personal expenses of the children;
- (iii) the sum of \$5,000.00 for the household expenses, which include the purchase of groceries, expenses for the maid and the car.

(7) In addition, the [Husband] shall pay to the [Wife] (and not on a reimbursement basis) the children's expenses in relation to their education, insurance policies and weekly pocket money.

3 The Husband has appealed against the Orders made on 22 March 2011. I now publish the reasons for my decisions on maintenance and division of the matrimonial assets.

Background facts

4 The parties were married on 19 January 1994 and were divorced 15 years later. They are both presently 45 years of age. Their son [E] is 16 years old, and their two daughters, [F] and [G] are respectively 13 and 8 years old ("the Children").

5 The Wife has a diploma in Building and Quantity Surveying from Singapore Polytechnic. For the first five years of the marriage, she worked full-time as a quantity surveyor and project manager. From 1999 until the marriage ended in 2009, the Wife was a full-time homemaker, and she was financially dependent on the Husband. The Husband is a shareholder and the Managing Director of his family company known as [OO] Pte Ltd ("OO"). He claimed to be drawing a net monthly salary of \$9,100, and that he was able to meet his monthly expenses with personal loans from his mother, and OO. The Husband also received additional income from his investments. He claimed that OO declared a one-time dividend payment and that was in November 2008.

6 During the marriage, the Husband gave the Wife supplementary credit cards issued by various financial institutions such as American Express, OCBC, POSB, ABN AMRO, Standard Chartered Bank, Citibank and the Royal Bank of Scotland. According to the Wife, she would be told by the Husband which supplementary card to use to pay the bills and expenses of the household and family. The Husband did not dispute the Wife's evidence in general save that he confirmed that she usually made use of three supplementary credit cards and that all the credit cards were cancelled in July 2009. During the marriage, at different periods of time, the Wife received monthly payments from three sources: (a) a business known as [PP], the sum of \$4,000; (b) a business known as [QQ], the sum of \$3,000 and (c) rental of \$3,200 from the MMM property. I will elaborate on these receipts in [\[30\]](#) below.

The matrimonial assets

7 The parties have three real properties that they hold as joint tenants, and these form the bulk of the matrimonial assets. Firstly there is the DDD property, a semi-detached house that was purchased in 1994 for \$1.74m and it had appreciated in value to about \$2.85m at the time of the hearing. This was the matrimonial home. Secondly, there is the MMM property, a ground floor apartment, which was purchased in 1995 for \$943,000 and valued at \$1.85m at the time of the hearing. Lastly, the parties have the Malaysian property in Port Dickson with an agreed value of \$32,866.46. [\[note: 1\]](#) Besides the above, the parties also have in their joint names several bank and investment accounts, but these have a total negative value of -\$14,939.70.

8 The Husband's disclosed assets were as follows: a 20% share in a property known as [address redacted] (hereafter referred to as "One Jervois") that he co-owned with his brother, shares, various insurance policies, his CPF moneys and several other bank accounts. As mentioned earlier, the Husband is a shareholder of OO, a private family company started by the Husband's parents in 1984. I agreed with the Husband's counsel, Ms Bernice Loo ("Ms Loo"), that the OO shares were not a "matrimonial asset" within the meaning of s 112(10) of the Women's Charter (Cap 353, 2009 Rev Ed). The OO shares were acquired before marriage and were not improved upon by the Wife. They were therefore rightly excluded from the pool of matrimonial assets. The total value of the Husband's

disclosed assets was \$729,545.74. [\[note: 2\]](#) However, the Husband has an outstanding tax liability of \$69,188.85 arising from his share of the taxable profits derived from the sale of the Queen Astrid Park property in 2006. Therefore, the total net value of assets in the Husband's name was \$660,356.89.

9 It is a convenient juncture to mention that the personal bank account balances disclosed by the Husband did not appear to be supported by his version of the evidence. The Husband claimed that he had \$13,565.88 in his Standard Chartered current account and \$23.61 in his Citibank Ready Credit account as at July 2009. [\[note: 3\]](#) There were negligible or negative values in all the bank accounts that he held jointly with the Plaintiff, and the balances gave the appearance that the Husband had extremely low cash reserves at his disposal. The Husband said that his monthly expenses amounted to \$23,517, and to defray these he received loans from his mother and later advances from OO. By way of explanation, the Husband claimed that he received payments of \$12,000 twice a month from OO; the total of \$24,000 comprising firstly his salary of \$9,100 and a secondly a loan of \$14,900. This alleged loan had been provided by his mother through OO since 2005. In connection with the loan from his mother, in his 1st Affidavit, the Husband stated that the monthly loan was \$14,000 and exhibited one bank statement in support of his contention. In doing so, he suggested that he was still receiving the monthly loan from his mother in 2009. I noted that the Husband had exhibited *only one* bank statement in support of these bimonthly payments [\[note: 4\]](#), which showed one payment of \$12,000 at the end of June 2009, and another payment of \$12,000 at the beginning of July 2009; rather than two payments of \$12,000 within the same month. In short, the documentary evidence did not support the Husband's story. The logical inference is that he must have other undisclosed accounts elsewhere, and the discrepancy suggested that the Husband's net worth was arguably more than the total amount disclosed in his affidavits. Quite unexpectedly, the Husband in his 3rd Affidavit modified his earlier affidavit evidence to claim that the loan was \$14,900 and not \$14,000 and that since the year 2007/2008, he had stopped borrowing from his mother, and instead borrowed the same sum of \$14,900 from OO directly. [\[note: 5\]](#) I will elaborate further on the loans in [\[42\]](#) below.

10 The Wife's disclosed assets were as follows: shares, a motor car, her CPF moneys, several bank and investment accounts and some insurance policies. She also holds two fixed deposit accounts jointly with her mother. Unlike the Husband, the Wife has no outstanding liabilities, and the total value of assets in her name was \$822,422.03 in 2009.

The parties' positions on division

11 The Husband's position on division of the matrimonial assets was consistent throughout the hearings. He wanted the MMM property sold and to apply the sale proceeds in the following manner:

- (a) To repay the outstanding housing loan;
- (b) To refund the moneys withdrawn from both the Wife and the Husband's CPF Accounts plus accrued interest;
- (c) To pay the costs of and incidental to the sale of the MMM Property, and
- (d) The available balance of the sale proceeds is to be divided in the proportion of 30% to the Wife and 70% to the Husband.

12 As for the other assets in joint names and the assets in the respective names of the Husband and the Wife, the Husband's position was that a division in the ratio of 80:20 in favour of the Husband

was fair and equitable. Finally, he wanted the Wife's name removed as a named beneficiary from his AXA insurance policy no [xxxxxxxxx].

13 Unlike the Husband, the Wife's position on division of the matrimonial assets went through several rounds of change, starting with the position outlined in the Fact and Position Sheet and repeated in the Skeletal Submissions tendered by the Wife's counsel, Mr Koh Tien Hua ("Mr Koh"), on 6 August 2010. Initially, the Wife asked for a just and equitable division of the matrimonial home based on her indirect contributions to the marriage and family including looking after the home. As for the MMM property, there was no dispute that the Wife withdrew a principal amount of \$110,326.35 from her CPF Account towards the acquisition of the MMM property. However, the Husband disputed her allegations that she had in the course of the marriage maintained and paid for the repairs to the property including the efforts she allegedly made to rent out the property. In relation to the MMM property and the other matrimonial assets in the names of the Husband, the Wife wanted a share based on a just and equitable division. The Husband was willing to transfer his share in the Malaysian property to the Wife as part of the division of matrimonial assets without selling it.

14 At the adjourned hearing on 16 September 2010, Mr Koh brought up the Wife's proposal: that each party should be given one property. In other words, the Wife would keep the MMM property and the DDD property would go to the Husband. Mr Koh explained that the Wife's proposal for a "swap" was just and equitable in the circumstances bearing in mind her direct financial and non-financial contributions to the acquisition and maintenance of the MMM property, her indirect contributions as a homemaker to the marriage, family and care of the home as well as her contributions to the businesses of PP and QQ. The tenancy on the MMM property would expire in 2012, and the Wife's idea was to utilise the rental to pay for rented accommodation for her and the Children until the expiry of tenancy in 2012. At the adjourned hearing on 16 September 2010, the Wife's stand as advanced by Mr Koh was that the Husband had not accounted for \$600,000 of the profits derived from the sale of the property at Queen Astrid Park and that sum should, therefore, be included in the pool of assets for division. The Wife reckoned that she should be awarded 30% of the sale proceeds of \$600,000. The Wife wanted the Malaysian property sold and be given 50% of the sale proceeds. As for the property known as One Jervois, Mr Koh pointed out that in the absence of documentary evidence to support the Husband's claim that his share in the property was only 20%, and working from the basis of his ownership of 100%, the Wife should be granted 30% of the value of One Jervois after deduction of the outstanding loan. Finally, each party was to retain the assets held in their respective names. Assets held on behalf of the Children were to be excluded from the pool of assets.

15 At the adjourned hearing on 30 November 2010, Ms Loo confirmed that One Jervois had been sold and the Husband's share of the sale proceeds was only \$404,273.29 based on his 20% co-ownership of the property. [\[note: 6\]](#) At the same hearing, Mr Koh informed the court of the Wife's revised position: that in exchange for the MMM property, (a) the Wife would take over the outstanding mortgage loan and the Husband would have to refund the moneys withdrawn from his CPF Account together with interest from his own resources; and (b) she would give up her claim to the DDD property including her claims in respect of the \$600,000 profits derived from the sale of the property at Queen Astrid Park and the \$404,273.29 derived from the sale of One Jervois. However, the Wife still wanted 30% of the moneys in the Husband's bank accounts. Mr Koh also advised that the Wife would not claim against the insurance policies in the Husband's name. As for assets in the Wife's name, Mr Koh advised that the Wife wanted to retain them.

16 At the adjourned hearing on 22 February 2011, Mr Koh confirmed the Wife's final position on the division of matrimonial assets. For the MMM Property, the Wife would pay the outstanding mortgage without a refund of the moneys withdrawn from the Husband's CPF Account or the corresponding accrued interest. In return, she would also forgo her claims for a share of (a) the DDD property; (b)

the profits of about \$600,000 derived from the sale of the Queen Astrid property (c) the sum of \$404,273.29 the Husband obtained from the sale proceeds of One Jervois; (d) the bank and investment accounts listed under "(B) Defendant's Assets" item 4 of Tab 1 to the Defendant's written submissions filed on 6 August 2010; and (e) the sum of \$174,000 provided by the Husband's father for the purchase of the DDD property. Each party would keep the policies in their respective names as well as moneys in their CPF Accounts as at August 2009. Mr Koh clarified that if the Husband decided to refund to his CPF Account the moneys which he withdrew to acquire the MMM property and the corresponding accrued interest, the Husband would have to refund these sums from his own financial resources.

Section 112 of the Women's Charter

17 Section 112 of the Women's Charter provides for the court to divide matrimonial assets upon divorce in a just and equitable manner. The legislation confers a wide discretion on the court dealing with the division of matrimonial assets. The court will consider the factors listed in s 112(2) of the Women's Charter, and "a multi-factorial approach" to division based broadly on the factors relevant to the case is usually undertaken (per Andrew Phang JA in *Pang Rosaline v Chan Kong Chin* [2009] 4 SLR(R) 935 ("*Pang Rosaline*") at [23].

18 It is convenient to now set out the relevant provisions of s 112(2):

112. (2) ...

2) It shall be the duty of the court in deciding whether to exercise its powers under subsection (1) and, if so, in what manner, to have regard to all the circumstances of the case, including the following matters:

(a) the extent of the contributions made by each party in money, property or work towards acquiring, improving or maintaining the matrimonial assets;

...

(d) the extent of the contributions made by each party to the welfare of the family, including looking after the home or caring for the family or any aged or infirm relative or dependant of either party;

19 The court will decide on the weight to be given to any one factor. Nowadays, it is common that both parties work, and the financial responsibilities are shared together with caring for the Children and home. Each case is fact-specific especially as to the degree of the shared responsibilities between the spouses. However, where the husband earned the money and the wife looked after the home and the Children, there should be no bias in favour of the working spouse against the homemaker. This is clear from Phang JA's observations in *Pang Rosaline* at [23] where he emphasised that a party's direct financial contribution to any particular matrimonial asset is not *prima facie* determinative of how the asset is to be divided, and that indirect contributions, which cannot be ascribed a monetary value, can be accorded as much or even more weight than financial contributions if so warranted on the facts in evidence. Section 112(2)(d) is particularly important for the homemaker whose contributions are likely to be to the welfare of the family, including looking after the home or caring for the family. To illustrate, I refer to *Yeo Chong Lin v Tay Ang Choo Nancy* [2011] 2 SLR 1157 ("*Yeo Chong Lin*"). In that case, the direct financial contributions were made by the husband while the indirect non-financial contributions were made by the wife. The husband also paid for the expenses of the family and the Children's education overseas. The appellate court did not

disturb Judith Prakash J's finding that the wife contributed to the family and the marriage to the best of her ability by taking on the roles of homemaker and mother. Prakash J viewed the matrimonial assets on a global basis and divided the assets to the wife and the husband in proportions of 35:65 respectively. The Court of Appeal commented that "35% of a large pool of matrimonial assets would be [just] to a spouse whose contributions were all in the domestic sphere" (at [82] of the judgment). Again in *Koh Bee Choo v Choo Chai Huah* [2007] SGCA 21, the homemaker wife did not make direct contributions to the assets acquired by the husband. The wife's claim was based on her contributions to the welfare of the family. The court recognised the importance of non-financial contributions to the welfare of the family and noted that s 112(2)(d) of the Women's Charter obliges the court to take into account the extent of the contributions made by each party to the welfare of the family, including looking after the home or caring for the family.

Considerations

20 In the present case, the Wife was a homemaker although she worked before F was born. Typically as was the case here, the working spouse would have contributed to the bulk of the assets. As the working spouse, the Husband provided financially for the family. One salient feature of the marriage was the inclusion of the Wife's name in the titles to the properties to which she had made no direct financial contributions. Apart from the MMM property where she contributed financially to the acquisition of the property, the Husband permitted the Wife's name to be included as a joint tenant to the DDD property. He had also permitted her name to be included as a joint tenant to the Malaysian property when she was his fiancée. There were bank accounts and investment accounts that were held jointly by the parties. It was not disputed that the Wife did not contribute financially to these accounts. I noted that the Husband explained in his 3rd Affidavit at paragraph 246 that he had "included her name because [he] loved her, she was [his] wife and [he had] wanted her to feel 'included'". In the context of the factual matrix in the present proceedings, the Husband's conduct as exemplified by his commitment to joint ownership was clear evidence of his position that the properties were matrimonial property for the benefit of the union and the family.

21 At the hearings of the ancillary matters, the Husband's stand on what would be a just and equitable division of the matrimonial assets suffered from an over-emphasis of his financial contributions, and he attempted to downplay the Wife's indirect contributions to the marriage and family. Much of the debate was on the parties' level of indirect contributions to welfare of the Children. I will examine the evidence and arguments later under the heading of "Indirect Contributions". Suffice it to say, the Wife's final proposal merited scrutiny to see if it could measure up to a just and equitable division of the matrimonial assets. I should explain at the outset that the detailed narrative of the Wife's different proposals above was not intended to suggest a weakening of her position after each adjournment. Rather, the Wife's final proposal was focused on the one property where she saw the evidence to be most advantageous to her case. There was nothing wrong with this stratagem as it was sensible. Needless to say, had the final proposal crystallised sooner, it would have reduced the number of hearings, spared the parties some emotional distress and saved them some time and costs.

Financial contributions towards the acquisition of the real properties

22 The DDD property was purchased after the parties were married in 1994 for \$1.74m and its value has since appreciated to about \$2.85m. [\[note: 7\]](#) The Husband's father had contributed \$174,000 or 10% of the purchase price in 1994 as down payment for the house. [\[note: 8\]](#) Although the Husband claimed that this was a loan, it was not his case that his father had demanded repayment. However, if the property was to be sold, the Husband wanted the father's loan to be repaid. Initially,

the Wife argued that the \$174,000 was a gift to the married couple, and through this gift, she claimed her financial contribution to the purchase of the property. However, she later dropped this claim in the light of her proposal for the properties to be swapped. Moving on to the encumbrances, there are two substantial outstanding mortgages amounting to \$1,603,217.15 taken out on the property, bringing its net value to \$1,246,782.85. One of the mortgages was for a sum of \$700,000 to cover the Husband's Forex losses in 2008. The DDD property was thus used as collateral for \$700,000 of the Husband's investment losses. The monthly mortgage of \$9,261.36 [\[note: 9\]](#) was paid from an account in the parties' joint names, but it was not disputed that the Wife did not make any contributions to this joint account. The Wife had made no financial contribution to the acquisition of the DDD property.

23 The Husband made two broad arguments: The first was that since the Wife would ordinarily benefit from the investment gains, she should likewise be responsible for the investment losses. Accordingly, as the argument developed, the Wife should bear part of the Husband's Forex losses or the outstanding liabilities under the second mortgage. I did not consider the Husband's argument as valid and meritorious. The Wife was a homemaker since 1999 and was financially dependent on the Husband. As the Husband was the sole breadwinner, it fell on the Husband to take on the financial responsibility of taking care of the needs of the family and household as well as to finance the purchases that now represent the bulk of the assets. I did not think that upon termination of the marriage, the family arrangement that had prevailed over the last 15 years should suddenly change in such a way as to make the Wife pay for her share of the investment losses sustained during the marriage. The second argument related to the Wife's indirect contributions to the marriage and family. To the Husband, the Wife's indirect contributions were not significant because she always had a maid to help with the care of the Children and the home, and that in recent years the Wife neglected the family and home after she befriended a maid, Anna. Therefore, her share of the DDD property should not be more than 20% which to the Husband was a generous division. I will deal with this second argument in the subsequent section headed "Indirect contributions" (see [\[32\]](#) below).

24 The MMM property was purchased in 1995 for a sum of \$943,000. At the time of the hearing, the market value of the property had more than doubled and was worth \$1.85 million. There was an outstanding mortgage of \$108,676.02, which meant that the net value of the property was \$1,741,323.98. The down payment of \$94,300 was from the Husband's father. [\[note: 10\]](#) Like in the earlier loan, it was not the Husband's case that his father had demanded repayment of the money. However, he wanted the property sold. In the event, the father's loan had to be repaid from the sale proceeds. Initially, the Wife again argued that the \$94,300 was a gift to the married couple. However, she later dropped this claim in the light of her property swap proposal. Now, in respect of this property, both parties had contributed financially to its acquisition. The principal amount withdrawn from the Wife's CPF Account was \$110,326.35. In Husband's case, the principal amount withdrawn from his CPF Account was \$328,136.67. The Husband made capital repayments totalling \$370,000 [\[note: 11\]](#) by utilising part of the profits derived from the sale of the Queen Astrid Park property which Ms Loo accepted was a matrimonial asset.

25 In relation to the MMM property, the Husband said that the Wife's share of the net sale proceeds should be 30% given her financial and non-financial contributions.

26 The Malaysian property was purchased in 1993, and the Husband paid 100% of the purchase price for this property. At the time of the hearing, it was worth \$32,866.46. The Wife's proposal to swap the properties did not specifically cover the Malaysian property. In short, the last time it was raised was at the adjourned hearing of 16 September 2010 where Mr Koh submitted that the Wife wanted the Malaysian property sold and that she should be given 50% of the sale proceeds.

Presumably, her position remained the same throughout the proceedings.

27 The Husband received a windfall when his 2006 investment with two friends in a new property at Queen Astrid Park returned a handsome profit of \$931,713 for the Husband. With his profit of \$931,713, he made a capital repayment of \$370,000 to reduce the mortgage of the MMM property. He then used \$310,000 as down payment for One Jervois. I pause here to comment on the Wife's contention that the Husband's interest in One Jervois was not 20% as there was no documentary proof of his shareholding. In my view, there was no evidential basis for the Wife's contention. The Husband exhibited a letter from his conveyancing lawyer dated 28 October 2008 confirming his 20% interest as tenants in common with his brother who held the remaining 80%. [\[note: 12\]](#) I should also mention Ms Loo's confirmation that One Jervois had been sold and that the Husband's share of the sale proceeds was \$404,273.29 (see [\[15\]](#) above). Another contention was over the Husband's claim that he utilised \$50,000 of the profits to buy the Wife's car. In any case, the rest of the money (*ie*, \$201,713) was apparently invested through the DBS Vickers investment accounts and Saxo Bank investment accounts. In the property swap proposal, Mr Koh confirmed that the Wife would drop her claim for division of this One Jervois sale proceeds, and the sum of \$201,713 that the Husband had invested through the DBS Vickers investment accounts and Saxo Bank investment accounts. Likewise, I would imagine that the remaining \$50,000, whether it was spent on the car or not, would also not be an issue.

Indirect contributions

28 The Wife had left her career as quantity surveyor and building project manager in 1999 to take on the roles of a full time homemaker, a parent and caregiver to the Children. During the marriage, the Wife would do the marketing and shop for groceries, cook for the family, and drive the Children to and from their school and activities. Although there was a full-time maid, the Wife said she supervised the maid to ensure that the household ran smoothly. [\[note: 13\]](#)

29 In the course of the marriage, the Wife assisted the Husband in two business ventures. In one venture, she was registered as the sole proprietor of PP, and the Husband was the registered proprietor of QQ. Both businesses were joint enterprises between the Husband and Wife: he brought in the business and she satisfied the administrative needs of the business. The parties argued on who between the two of them provided the start up cost of \$10,000. Be that as it may, in my view, PP and QQ were businesses generated by the joint efforts of the parties for the benefit of the marriage and family. The Wife admitted that the monthly drawings of \$4,000 from PP were used for "their expenses". The monthly drawings of \$3,000 from QQ were put aside as "their savings". [\[note: 14\]](#) The Wife appeared to have corrected her evidence in a later affidavit to state that the money she received from PP and QQ were used only for household expenses. [\[note: 15\]](#)

30 According to the Husband, the Wife's evidence on the monthly drawings was misleading. He argued that the Wife never at one time received monthly allowances from both businesses. The monthly allowance from PP was paid between 2004 and 2006. In the first year, the monthly allowance was about \$3,000 but it subsequently increased to \$4,000 monthly. The Husband said that PP ceased to carry on business in 2006. As for QQ, the business was set up in 2006. Between 2006 and 2007, the Wife was paid a monthly figure of \$3,000 by QQ until it stopped trading in 2007. In response, the Wife disputed the Husband's claim that PP ceased business in 2006. She was able to produce invoices to prove that PP was still carrying business as late as August 2008. [\[note: 16\]](#) Furthermore, she only stopped receiving monthly allowance from QQ in January 2008, and not in 2007 as alleged by the Husband. The evidence supported the Wife's claim in that she was able to show from invoices that

QQ was still doing business in May 2008. [\[note: 17\]](#) I did not think that the conflicting evidence was material.

31 In my view, the material evidence the Husband gave was the source of the \$50,000 invested in the Queen Astrid Park property. Out of this \$50,000, a sum of \$42,000 came from the account of PP. [\[note: 18\]](#) This fact was significant as the Husband utilised part of the huge profit he made from the Queen Astrid Park property to make capital repayments totalling \$370,000 in two tranches (*ie*, \$200,000 in 2006 and \$170,000 in 2008 [\[note: 19\]](#)) towards reducing the loan the parties had taken to acquire the MMM property. In this regard, the \$42,000 represented funds from the joint enterprise, *viz* PP that was invested by the Husband, and the windfall derived from the investment enabled the capital repayments to be made. In this regard, the capital repayments were traceable to the \$42,000 that came from the Wife's indirect contribution to the joint enterprise and was thus relevant and should not be ignored.

32 To the Husband, the Wife's indirect contributions were not substantial because she always had a full-time maid to help with the care of the Children and the home, and that in recent years the Wife neglected the family and home after her association with a medium, Anna. This allegation of neglect was denied by the Wife who maintained that Anna was not a medium but was the chairperson of Wat Samnak Poh Pu Lersi Na Lai, a charitable organisation. [\[note: 20\]](#) I make three points.

33 Firstly, I rejected as unsustainable the argument that the Wife was assisted by a full-time maid as a reason to diminish the Wife's indirect contributions to the marriage, care of the household and well being of the family. The evidence before me did not bear out the Husband's claim. This was a 15 year marriage with three Children. The Husband's argument ignored the Wife's parental responsibilities towards the Children. In the words of Tay Yong Kwang JC (as he then was) in *Lee Chung Meng Joseph v Krygsman* [2000] 3 SLR(R) 965 at [41] (and approved by the Court of Appeal in *Pang Rosaline* at [18]), "[h]aving a maid in the household, or a number of maids for that matter, does not mean abdication of parental responsibility towards the child". Furthermore, by the husband's own evidence, he admitted to the Wife's supervision of the Children before their school examinations. [\[note: 21\]](#) He accepted that the Wife did the marketing and shopped for groceries but she was accompanied by the Husband and these activities stopped two years ago (*ie*, these activities stopped in 2008 since the Husband's affidavit was filed in 2010). [\[note: 22\]](#) The Wife disputed the Husband's claim.

34 Secondly, I noted that the Wife's alleged neglect of family and home was *after* she befriended Anna. In other words, the Husband's argument carried the implication that the Wife had contributed to the domestic sphere in her roles as mother, wife and housekeeper until she befriended Anna. Thirdly, the allegation of neglect could not have been as bad as the Husband had wanted this court to believe. A compelling factor militating against the allegation of the Wife's neglect of the Children was the Husband's willingness to give care and control of the Children to the Wife. In his 2nd Affidavit of 10 March 2010, the Husband unreservedly accepted the Wife's proposal made in her 1st Affidavit of 29 December 2009 that joint custody of the Children should be granted to both parents, with care and control to the Wife and reasonable access to the Husband. At the hearing on 6 August 2010, Ms Loo confirmed the Husband's agreement to joint custody with care and control to the Wife, and I so ordered. As for access, the Husband's proposal was set out in Ms Loo's submissions. The Wife agreed to most of the Husband's demands except for dinners thrice a week with the Children. The Order on access is set out at [\[1\]](#) above.

35 In relation to the Husband's indirect contributions, the Husband claimed to have been a committed parent and that even though he had to travel several times a year on business and that

he worked full-time, he still made the effort to fetch the Children to their activities on the weekends, and to spend as much time as possible with them. The Wife did not agree that the Husband was as involved in the lives of the Children as he would have this court believe. She claimed that the Husband was too busy with his business and spent little time with the Children preferring to spend the evenings in front of the television. That said, elsewhere in her affidavit, the Wife admitted (a) that the Husband would bring the Children out and fetch them home, presumably from school or activities, [\[note: 23\]](#) and (b) to the Husband's generosity and that he had provided well for the family. She also admitted to the Husband's weekly outings with the family to the cinema and the family would often dine at well-known restaurants. From the overall evidence, my impression was that both parties were involved parents. The parents' relationships with the Children, and the Children's relatively good academic results and busy extra-curricular activities bear testimony to a caring and conducive familial support system.

36 The Wife claimed that she worked as "the builder" for both the DDD and MMM properties when the properties were renovated. [\[note: 24\]](#) The Husband claimed that he had made the final decisions on choice of the contractors and materials for the properties, and that the Wife had made minimal contribution to the renovations. Given the Wife's qualifications and experience in the construction and building industry, I believe that the Wife would have contributed her skill and experience to the renovations, but whether these were received and accepted by the Husband was another matter. The Wife revealed that the Husband was domineering and would insist on his way. In the end, the fact remained that when the marriage was ongoing and the relationship between the parties was good, the parties seemed committed to improving the family's assets together.

Division of the matrimonial assets

37 Having considered the matters set out above, I found the proposal that each party to take one of the properties in Singapore workable, and above all it was commensurate with a fair and equitable division. Upon the transfer of the MMM property from the Husband to the Wife, there would be no refund of the Husband's CPF moneys that were used for the purchase of this property. The MMM property is tenanted until 2012 at a current monthly rental of \$3,650. However, the Husband would transfer \$3,200 of the monthly rental to the Wife. [\[note: 25\]](#) The Wife confirmed that she was left to pay the maintenance charges of \$340 per month. [\[note: 26\]](#) After the resolution of the ancillary matters, the Wife would have to move out of the DDD property and find suitable accommodation for herself and the Children. The Wife had indicated that, in the meantime, she would use the rental from the MMM property to pay for the rented accommodation for herself and the Children. I thought it fair and equitable that the parties should be allowed to retain the assets in their own names. The value of the assets retained by the Wife would help her pay for the MMM property mortgage, and start her new home for the Children. Allowing the Wife to retain her car meant that she would be able to provide transport and run errands for the Children.

38 I have already commented on the DDD property above at [\[22\]](#)-[\[23\]](#). Compared to the Wife, the Husband was better placed financially. By reference to his earning capacity in the family business and, if necessary, the financial support of his parents, he would have the financial resources to shoulder the mortgage liabilities secured against the DDD property. As for the third piece of real property, the Malaysian property, the Husband was allowed to keep it.

Maintenance

39 The Wife sought from the Husband a monthly payment of \$10,300 as maintenance for herself and the Children. In essence, as Mr Koh explained, the Wife wanted the same amount of money that

she had received during the marriage, and this figure came from the same three sources mentioned in [\[6\]](#) above. According to the Wife, she received (a) the sum of \$3,000 monthly from QQ until January 2008; (b) the sum of \$4,000 monthly from PP until June 2009; and (c) the sum of \$3,200 monthly being the rental proceeds from the MMM property. [\[note: 27\]](#) The Wife's claim for \$10,300 was based on items (a), (b), and the 2007 monthly rental of \$3,300 for the MMM property.

40 Section 114 of the Women's Charter stipulates the matters that the court would consider in determining the quantum of maintenance to be the Wife and Children. The Wife is, therefore, required to justify her claim for the sum of \$10,300 as monthly maintenance.

41 Looking back to the time before the breakdown of the marriage, the family had enjoyed a relatively high standard of living. They lived in the DDD semi-detached landed property, the Wife held many supplementary credit cards given to her by the Husband, and he gave her expensive gifts of watches and jewellery. The Children had a wide variety of extracurricular activities including language lessons, swimming and taekwondo classes, and either of the parties would drive them there in the family car. The Husband was the only working spouse but the Wife received allowances from the enterprises set up by the parties. She also received the monthly rental income from the MMM property. The allowances and rental income were applied towards their expenses. It was not disputed that the Wife also used the supplementary credit cards to pay the household and family expenses. [\[note: 28\]](#)

42 The Husband's monthly expenses amounted to \$23,517, of which roughly half went towards paying off the mortgage and property tax for the MMM and DDD properties. The Husband also claimed that he drew a net monthly income of \$9,100. At first glance, this seems to be an egregious case of spending beyond one's means. The Husband, however, explained that the gulf between his income and his expenses was bridged by the solid support of his mother, who lent him a sum of \$10,000 a month since early 2005, which was subsequently revised to \$14,900 a month in June 2005 when the Husband requested for more assistance. [\[note: 29\]](#) As explained at [\[9\]](#) above, the Husband claimed that OO paid him \$12,000 twice a month, the total amount of \$24,000 being the sum of \$9,100 and \$14,900. It was also noted above that the Husband produced only one bank statement in 2009 (see [\[9\]](#)) despite claiming to have had received these payments since 2005. The Husband went on to claim that the loans would probably cease after the ancillary proceedings were completed, because the matrimonial assets would in all likelihood be sold off and he would no longer be liable for the hefty mortgage payments due in respect of the properties in the pool of matrimonial assets.

43 The mechanism by which the mother's loan was granted operated in the following manner. Apparently OO was indebted to the Husband's mother for a large sum, and it was decided that instead of repaying the loan to the Husband's mother directly, OO would simply pay the sum owed to the Husband. In that way, the Husband's mother would transmit loans amounting to \$14,900 a month to the Husband through OO. These supposed loans from the Husband's mother had been paid by OO since June 2005. [\[note: 30\]](#) However, the Husband later claimed that in 2007/2008 he stopped borrowing from his mother and borrowed the sum of \$14,900 every month from OO instead. In his 3rd Affidavit, the Husband for the first time introduced a loan from OO. At para 12, the Husband stated:

OO has repaid my mother for the loan which she had extended to OO. However, as I needed money to meet my expenses, in or around 2007/2008, I continued drawing extra money from OO every month, as a loan from OO to me.

44 Apart from the Husband's confirmation to the auditor that he owed OO the sum of \$170,000 as at 31 December 2008, [\[note: 31\]](#) and OO's confirmation to the auditor that it owed [J] (the Husband's

mother) the sum of \$142,781.19 as at 31 December 2006, the documentary evidence such as OO's financial statements and the one bank statement exhibited by the Husband did not establish satisfactorily the Husband's claim that the mother's loan was disbursed through OO. Be that as it may, throughout the marriage there was available to the Husband enough money to fund his personal expenses, mortgages repayments and the expenses of the household and family.

45 The amount of household expenses claimed by the Wife totalled \$10,413.91. This included expenses related to the purchase of groceries, utilities and maintenance of the household, the upkeep of the car and the employment of the maid. I found the sums claimed by the Wife, in particular those sums relating to the marketing and grocery bills, tonics, vitamins, utilities, repairs of electronic goods, and maintenance of the car to be excessive. I thought it fair that the Husband should pay the Wife a monthly sum of \$5,000 for the household expenses.

46 Separately, the Wife claimed that the monthly expenses for all three Children totalled \$6,867.68, and these included expenses related to education, insurance premiums, grooming, entertainment and leisure, holidays/travel and birthday parties. I believe that some of the expenses claimed by her were on the high side, in particular those relating to items like holidays/travel, gifts, and clothes, shoes, bags, storybooks. For the last item, the Wife claimed a sum of \$1,500 a month. Her claim for "holidays/ travel" also amounted to \$1,500 a month which I believe is excessive for school going Children. Simply because the Husband spent \$500 per month for his personal travel was no justification for insisting on the same amount for the Children and herself. [\[note: 32\]](#) If travel expenses were for school trips such as for sports, exchange programmes, and learning programmes, they would be borne separately by the Husband under the Order of 22 March 2011. For the above reasons I thought it fair that the Husband should bear the Children's monthly expenses (not on a reimbursement basis) relating to their education, insurance policies and weekly pocket money, and he shall pay the Wife an additional separate sum of \$900 a month for the Children's personal expenses.

47 Mr Koh submitted that the Wife's personal expenses totalled \$4,646.82 and these included expenses related to handphone charges, clothes, shoes and bags, cosmetics, grooming, insurance, food, holidays/travel, allowance for her parents and festive expenses such as Christmas presents and Vesak Day charitable contributions. Some items of expenses such as clothes, shoes and bags, handphone charges, holidays/travel, festive expenses and donations were excessive. In the circumstances I thought it fair that the Husband shall pay the Wife a sum of \$2,500 a month for her personal expenses.

48 In sum, the Husband is to pay the Wife a sum of \$8,400 a month as maintenance for herself and the Children. The breakdown of this sum is \$2,500 for the Wife's personal expenses, \$900 for the Children's personal expenses and \$5,000 for the household expenses. In addition, the Husband shall pay the Wife, and not on a reimbursement basis, the Children's expenses relating to their education, insurance policies and weekly pocket money.

Result

49 The Orders made on 22 March 2011 are set out in [\[2\]](#) above. Each party was ordered to bear his or her own costs.

[\[note: 1\]](#) Husband's 3rd Affidavit at paras 47- 48

[\[note: 2\]](#) Defendant's Submissions Tab 1

[\[note: 3\]](#) Husband's 1st Affidavit at para 13

[\[note: 4\]](#) Husband's 1st Affidavit at para 28

[\[note: 5\]](#) Husband's 3rd Affidavit at paras 11-13, 119, 123-125 and Husband's Submissions Tab 2

[\[note: 6\]](#) Husband's 3rd Affidavit at paras 44-45

[\[note: 7\]](#) Husband's 4th Affidavit at p11

[\[note: 8\]](#) Husband's 1st Affidavit at p 23

[\[note: 9\]](#) Husband's 1st Affidavit at p 23

[\[note: 10\]](#) Husband's 1st Affidavit at p 6

[\[note: 11\]](#) Husband's 1st Affidavit at p 25

[\[note: 12\]](#) Husband's 3rd Affidavit at para 42

[\[note: 13\]](#) Wife's 3rd Affidavit at para 38

[\[note: 14\]](#) Wife's 1st Affidavit at para 15(j)

[\[note: 15\]](#) Wife's 2nd Affidavit at para 51

[\[note: 16\]](#) Wife's 3rd Affidavit at paras 53 & 55

[\[note: 17\]](#) Wife's 3rd Affidavit at para 57

[\[note: 18\]](#) Husband's 2nd Affidavit at para 53

[\[note: 19\]](#) Husband's 3rd Affidavit at para 140

[\[note: 20\]](#) Wife 2nd Affidavit at paras 71 & 76

[\[note: 21\]](#) Husband's 2nd Affidavit at para 41(c)

[\[note: 22\]](#) Husband's 2nd Affidavit at para 41(f)

[\[note: 23\]](#) Wife's 2nd Affidavit at para 67

[\[note: 24\]](#) Wife's 2nd Affidavit at para 53

[\[note: 25\]](#) Husband's 3rd Affidavit at para 181

[\[note: 26\]](#) Wife's 2nd Affidavit at para 60

[\[note: 27\]](#) Wife's 3rd Affidavit at para 61

[\[note: 28\]](#) Husband's 2nd Affidavit at para 45

[\[note: 29\]](#) Husband's 1st Affidavit at p18 and 3rd Affidavit at p28

[\[note: 30\]](#) Husband's 1st Affidavit at pp 17 - 20

[\[note: 31\]](#) Husband's 3rd Affidavit at p141

[\[note: 32\]](#) Wife's 2nd Affidavit at para 80

Copyright © Government of Singapore.