

TEG v TEH and another matter
[2015] SGHCF 8

Case Number : District Court Appeals from the Family Courts Nos [X] and [Y]
Decision Date : 09 September 2015
Tribunal/Court : High Court
Coram : Valerie Thean JC
Counsel Name(s) : Dora S L Chua (M/s Dora Boon & Company) for the appellant in DCA [X] and respondent in DCA [Y]; Tan Siew Tiong (M/s Lawhub LLC) for the respondent in DCA [X] and appellant in DCA [Y].
Parties : TEG — TEH

Family Law

9 September 2015

Judgment reserved.

Valerie Thean JC:

Introduction

1 This is an appeal from ancillary orders consequential upon the divorce between TEH (“the Wife”) and TEG (“the Husband”). Parties were married on 18 September 1982 in Singapore. They were living separately since 18 July 2005 and the Wife filed for divorce on 7 March 2013. Interim judgment was granted on 19 August 2013. The marriage spanned about 22 years prior to parties living separately and 31 years up to the time of the interim judgment.

Background

2 The Husband is 60 years old and the Wife is 54 years old. There are three children of the marriage. The eldest daughter, aged 28, was diagnosed with severe cerebral palsy shortly after birth. The middle child is a son aged 22 and the youngest, another son aged 21.

3 The Husband’s gross monthly salary as Vice-President (Design) at an architectural and engineering firm is about \$13,400. The Wife, who had worked in a family business run by her side of the family, used to earn a gross monthly salary of about \$3,800. She is presently unemployed following a restructuring of the family business.

4 The Wife left the matrimonial home in 2005. All three children continued living with the Husband. In 2013, upon the commencement of divorce proceedings, the two sons moved in with the Wife.

Decision below

5 The District Judge (“the Judge”) made the following orders on 26 February 2015:

(a) Both parties shall have joint custody of the youngest son, with care and control to the Wife and reasonable access to the Husband. The eldest daughter shall remain in the care of the Husband and the Husband shall solely provide the maintenance for her.

(b) The Husband shall pay for all future university educational expenses for the two sons subject to prior consultation between him and the two sons.

(c) The matrimonial home is to be sold in the open market and the proceeds are to be divided 44% to the Wife and 56% to the Husband. The Husband shall have the first option to buy over the Wife's share of the matrimonial home. If he wishes to exercise this option, he shall notify the Wife within three months from the date of this order. Further, the Registrar or Assistant Registrar of the Family Justice Courts is empowered to execute, sign or indorse all necessary documents relating to matters contained in this order on behalf of either party (in the event of that party's failure to adhere to the order within seven days of a written request being made to that party).

(d) The Husband shall pay a monthly maintenance of \$3,000 to the Wife for 12 months with effect from 31 March 2015. The sum of \$3,000 is for maintenance of the Wife and the youngest son until June 2015 and thereafter this sum of \$3,000 is for maintenance of the Wife until end-March 2016. Thereafter, the Husband shall pay to the Wife a nominal sum of \$1 per month.

(e) Parties shall retain all other assets in their sole names.

Issues

6 In the present appeal, the issues before the court are as follows:

- (a) orders relating to the children;
- (b) division of the assets; and
- (c) maintenance for the Wife.

Orders relating to the children

Custody

7 The Judge's order in relation to the youngest son has not been appealed against.

8 The Judge's order in relation to the eldest daughter, however, is in dispute. The eldest daughter, who suffers from severe cerebral palsy, continued living with the Husband when the Wife moved out of the matrimonial home in 2005. She had been looked after by the Husband with the assistance of a domestic helper. The Wife argued that she should be awarded care of the eldest daughter. She intended to place her in the Day Activity Centre run by the Spastics Association of Singapore, but the Husband objected to this proposal on the ground that the expense (at \$600 to \$800 per month) was too high. The Judge ordered that the eldest daughter was to continue in the care of the Husband. The Wife appealed to this court against the Judge's finding.

9 Matters relating to custody consequential upon divorce, such as in the present case, are governed by Part X Chapter 5 of the Women's Charter (Cap 353, 2009 Rev Ed) ("the Charter"). The Chapter commences with s 122 which defines "child" as follows:

Meaning of "child"

122. In this Chapter, wherever the context so requires, "child" means a child of the marriage as defined in section 92 but who is *below the age of 21 years*. [emphasis added]

For completeness, s 92 of the Charter defines “child of the marriage” as:

any child of the husband and wife, and includes any adopted child and any other child (whether or not a child of the husband or of the wife) who was a member of the family of the husband and wife at the time when they ceased to live together or at the time immediately preceding the institution of the proceedings, whichever first occurred; and for the purposes of this definition, the parties to a purported marriage that is void shall be deemed to be husband and wife ...

10 The eldest daughter is 28 years of age. Counsel for both parties agreed that an order ought not to be made in these ancillary matters. I therefore set aside the order in relation to the eldest daughter. It would be desirable to make an order for her long term care, however, with the appropriate medical evidence before the court. I will hear parties on the directions to be made for an application under the Mental Capacity Act (Cap 177A, 2010 Rev Ed) (“Mental Capacity Act”).

Maintenance for the sons

11 In this case, the Judge made an order that the Husband pay for all future university educational expenses for the two sons, subject to prior consultation between him and the two sons.

12 The order ought not to have been made for the middle son, as s 122 of the Charter restricts the power under Chapter 5 to children under the age of 21 (as noted above). The middle son has to apply for himself under s 69 of the Charter. Children who are serving full-time national service or are, or plan to be, receiving instruction at an educational establishment may apply for maintenance under s 69(5) of the Charter.

13 The youngest son was under 21 at the time of the hearing of the ancillary matters and the court did have the power to order a sum for his university education. However, it appears that the need had yet to crystallise at the time of the order. At the appeal, although counsel stated that the youngest son wished to go overseas to study, there was no evidence before me – for instance, in relation to the university fees he would incur – upon which to make the order. I therefore set aside the order relating to the youngest son’s university educational expenses. The youngest son has since turned 21 and may apply under s 69 of the Charter if the need arises under subsection (5).

Division of the assets

Applicable law

14 In determining how assets are to be divided, the “broad-brush” approach is preferred. The courts should “resist the temptation to lapse into minute scrutiny of the conduct and efforts of both spouses, which may be objectionable in disadvantaging the spouse whose efforts are difficult to evaluate in financial terms” (*NK v NL* [2007] 3 SLR(R) 743 (“*NK v NL*”) at [28]). The philosophy behind this approach, as most recently reiterated by the Court of Appeal, is that “mutual respect must be accorded for spousal contributions, whether in the economic or homemaking spheres, as *both roles are equally fundamental* to the well-being of a marital partnership” [emphasis in original] (*ANJ v ANK* [2015] SGCA 34 (“*ANJ*”) at [17], citing *NK v NL* at [41]).

15 In *ANJ*, the Court of Appeal also cautioned against over-emphasising direct financial contributions and, often correspondingly, undervaluing indirect contributions (at [19]). This typically happens when courts attempt to divide assets using either party’s direct financial contribution as a starting point. This approach leaves stay-at-home housewives at a disadvantage, given that their direct financial contributions would typically be minimal (see *ANJ* at [18], citing *Tan Hwee Lee v Tan*

Cheng Guan and another appeal and another matter [2012] 4 SLR 785). The court therefore preferred a “structured approach” to division (see *ANJ* at [22]).

16 Taking guidance from *ANJ*, it could be useful to deal with cases such as the present with the following approach:

- (a) First, to delineate the matrimonial pool, making clear the date or dates to be used for such assessment.
- (b) Then, to ascribe a ratio that represents each party’s direct financial contributions relative to the other party.
- (c) Third, to decide a ratio that represents each party’s indirect contributions.
- (d) Using these two ratios, to derive each party’s average percentage contributions.
- (e) Lastly, because the “average ratio” is only an “indicative guide”, the court may make any further adjustment as may be necessary, either to the weightage of the direct and indirect components, or to shift the average ratio.

I now apply these steps to the case at hand.

Matrimonial pool

17 In determining the assets that constitute the matrimonial pool, an operative date would first have to be determined. The broad discretion of the court in selecting an operative date for determining the pool of matrimonial assets for division was reaffirmed by the Court of Appeal in *Yeo Chong Lin v Tay Ang Choo Nancy and another appeal* [2011] 2 SLR 1157 (“*Yeo Chong Lin*”). In that case, the Court of Appeal noted (at [32]) that Parliament had not fixed a date for determining the pool of matrimonial assets as such a rigid position might not secure a just result in every case. Having analysed the authorities in various jurisdictions and appreciated the legislative intention behind not mandating a fixed operative date, the court opined (at [39]) as follows:

Speaking broadly ... there are possibly four timelines which a court could conceivably adopt. The first is the date of separation. The second is the date on which the petition of divorce is filed. The third is the date on which a *decree nisi* is granted. The fourth is the date of hearing of ancillary matters (including the date of the hearing of an appeal). ... we have ruled out the date of the grant of the *decree absolute* as an option because it is a date in the future and cannot realistically be applied. Of the four possible cut-off dates, it seems to us that generally speaking it would be sensible to apply either the date of the *decree nisi* or the date of the hearing of the ancillary matters. Much would depend on the fact-situation. ... there is nothing to preclude the court from applying different cut-off dates to different categories of assets if the circumstances so warrant.

18 In this case, a brief timeline of the parties’ relationship is as follows:

- (a) 1983 – Parties were married.
- (b) 2005 – The Wife left the matrimonial home.
- (c) March 2013 – The Wife filed her writ of divorce.

- (d) August 2013 – Interim judgment was granted.
- (e) April 2015 – Ancillary Matters hearing.

19 The Husband was of the view that 2005 should have been used as the operative date for determining the matrimonial pool. The Wife, on the other hand, took the position that the date should have been August 2013 – when interim judgment was granted.

20 In both *Yeo Gim Tong Michael v Tianzon Lolita* [1996] 1 SLR(R) 633 and *ARX v ARY* [2015] 2 SLR 1103, the wife continued looking after the children after interim judgment was granted, and the court took into account the continued indirect contribution of the wife, choosing an operative date as at when the ancillary matters hearing had commenced.

21 Here, the children stayed with the Husband after 2005, when the Wife left. The Wife contends that even after she had left the matrimonial home, she returned a few times each week to take care of the children. In this regard, although she had left, there was still a semblance of a family up until 2013, with parties contributing in various ways for the benefit of the children. The fact that the relationship between the Wife and the children – in particular the sons – is close is reflected by the sons choosing to stay with the Wife in 2013.

22 In deciding the operative date in this case, I had regard to the guidance of the Court of Appeal, that “[u]ltimately, perhaps the adoption of an operative date or dates may not really be that critical as compared to arriving at a just and equitable division” (*Yeo Chong Lin* at [36]).

23 On this point, the Husband argued that the asset pool was much lower in 2005 when the Wife left, and her contribution to his asset accumulation since that time was minimal. I did not find this argument persuasive. Of course, parties could have divorced at the time of separation and their assets could have been split at that time, with much lower shares to each as they went their own way. Instead, neither filed a suit, and the fact of the matter was that, over the course of time, the value of the assets increased. While the Husband was the main contributor of this financial increase, this would be taken into account in the percentage of financial contribution attributed to him. At the same time, the Wife continued to contribute to the family, and her assets acquired after 2005 would also be added into the matrimonial pool, even if her direct financial contribution was of a far more modest size.

24 In my judgment, in this case, it would be just and equitable to consider the whole length of the marriage at least up to the time of interim judgment, and to put both parties’ acquisitions made in that time into the basket. In contrast to the Husband’s use of 2005 as the date, the use of the Wife’s 2013 date allows the court to take a more holistic and comprehensive view of both parties’ contributions to the marriage, whether direct or indirect. In this case, while using the date of the ancillary matters hearing was a possibility arising from *Yeo Chong Lin*, it was not the case advanced by either party. Using the date of the interim judgment was practical because the evidence before the court related only to the value of the parties’ assets as of that date.

25 The agreed pool of assets as at the time of the interim judgment is as follows. Parties accepted the Husband’s valuation, which is used here (rounded to the nearest dollar):

No	Asset	Ownership	Value

1	Matrimonial Home	Joint	\$1,985,527 [note: 1]	\$1,990,152 (total value of assets in joint names)
2	DBS Account (A)	Joint	\$4,602	
3	POSB Account (A)	Joint	\$23 [note: 2]	
4	POSB Account (B)	Wife	\$11,681	\$412,995 (total value of assets in the Wife's sole name)
5	UOB Account (A)	Wife	\$13,735	
6	UOB Account (B)	Wife	\$10,116	
7	CPF Ordinary Account	Wife	\$29,363	
8	CPF Medisave Account	Wife	\$42,968	
9	CPF Special Account	Wife	\$75,132	
10	Great Eastern Policies	Wife	\$200,000 [note: 3]	
11	Jewellery kept in UOB Safe Box	Wife	\$30,000	
12	POSB Account (C)	Husband	\$11,946	\$1,156,339 (total value of the assets in the Husband's sole name)
13	DBS Account (B)	Husband	\$566	
14	Standard Chartered Account (A)	Husband	\$19,970	
15	CPF Ordinary Account	Husband	\$61,625	
16	CPF Medisave Account	Husband	\$45,125	
17	CPF Special Account	Husband	\$28,008	
18	Great Eastern Policy	Husband	\$140,000	
19	NTUC Income Policy (A)	Husband	\$53,166	
20	NTUC Income Policy (B)	Husband	\$12,575	
21	Stocks and shares	Husband	\$360,369	
22	Motor vehicle	Husband	\$15,000	
23	Cash	Husband	\$407,989 (as explained below).	
Total			\$3,559,486	

26 In relation to item 23, this amount originated from \$720,000 that the Husband had withdrawn from the joint POSB account in 2013. Of this, he claims \$137,673 was money he inherited from his mother in 2012. The rest came from the sale of the flat in Bishan and his bonuses. His evidence is that he spent portions of this \$720,000 on his car, and stocks and shares, both of which are within the matrimonial pool. His living expenses also accounted for some reduction. Only \$360,000 is left and

that is "kept at home" for the eldest daughter. This \$360,000 ought to be divided between parties, in the light of the need for a separate application to be made for the daughter's longer term care. Both parties will have a shared responsibility for her maintenance. At the same time, because stocks, shares and the car are already within the pool, there could be double counting to use a full \$582,327 which is the sum obtained from subtracting the inheritance money from the \$720,000. In my view, weighing up these various considerations, it would be fair to use the Bishan flat proceeds as an estimate of that which ought to be in the pool. This amounts to \$407,989. The total pool to be divided comes to about \$3,559,486.

Dividing the pool

27 The Judge's decision was made before *ANJ* was released. Her approach can be summed up from [29] of her grounds of decision, which reads:

Taking all the facts and circumstances of this case in totality, and applying a broad brush approach to the division of matrimonial assets, I am of the view that it would be just and equitable to give the wife another 20% of the net value of the matrimonial house on top of the 12% of her financial contribution. As for the assets in parties' sole names, the wife's assets of \$312,993.75 constitute about 26.5% of the total pool of assets (plus the husband's assets of \$870,054.23 in his sole name, the total pool of assets in sole names amount to \$1,183,048). An additional 20% to the wife in recognition of her non-financial contribution to the welfare of the family to make it 46.5% would give the wife the amount of \$550,117.32. If the wife were allowed to keep the assets in her sole name, the remaining \$237,124 represents the additional value of the matrimonial assets to be given to her. Taking the estimated value of \$2.8m as the value of the matrimonial property and the outstanding loan amount as \$814,473.43 (the amount outstanding as at the time of filing of the first ancillary affidavit), the amount of \$237,124 translates to another 12% of the net value of the matrimonial property. Thus, I award a total of 44% (12% + 20% + 12%) of the net value of the matrimonial property to the wife. Both parties shall keep all other assets in their sole names.

As mentioned above, and in line with *ANJ*, it may be preferable to deal with the assets as a whole and thereafter, embark on a structured approach to division. Having identified the pool of assets, I now consider the financial contributions of the parties.

Financial contributions

28 Both parties disagreed with the sums used by the Judge in relation to financial contributions. The Husband gives the Wife credit for contributing to 12% of the purchase price of the matrimonial home. However, the matrimonial property is only a part of the pool of the assets. Furthermore, there were three other properties previously owned by the parties that have since been sold off prior to their acquisition of the present matrimonial home. The Husband's evidence was that all the proceeds from the sales of these properties were banked into the parties' joint account.

29 Based on the evidence, there is no satisfactory breakdown of each party's financial contribution to each of the properties. For this reason, I will use the "income approach", which has been adopted in several cases including *Pang Rosaline v Chang Kong Chun* [2009] 4 SLR(R) 935, to determine the parties' overall financial contributions. In *AJR v AJS* [2010] 4 SLR 617, the High Court explained the rationale thus at [22]:

Having regard to the fact that in most marriage partnerships it is largely fortuitous as to which party contributes directly towards the acquisition of matrimonial assets (*eg*, houses, shares,

bonds, insurance policies with cash surrender values, etc) and which party pays for other family expenditure (eg, food, education and medical expenses, etc) which have no asset value, I would prefer to adopt a global assessment approach and work on the basis that, unless disputed, the parties to a marriage have contributed and applied all their respective incomes from employment or business received in the course of the marriage to the overall welfare of the family (be it as unattributable *direct* financial contributions towards food, education and medical expenses, etc, or as attributable *direct* financial contributions traceable to the maintenance or acquisition of matrimonial assets including cash deposits which are the unused monies saved by the parties). The ratio of their total respective incomes during the life of the marriage would *prima facie* represent or reflect as a whole their respective *direct* financial contributions (both attributable and unattributable) towards the overall welfare of the family and, accordingly, would *prima facie* also help to determine their respective *direct* contributions for the purpose of a just and equitable division of matrimonial assets, which I must stress is only one side of the equation. The other side of the equation is the ratio of *indirect* contributions made by the parties towards the overall welfare of the family. Both ratios of *direct* and *indirect* contributions by the respective parties will then be factored together to determine, as best as the court can using a holistic and broad-brush approach, the most appropriate final ratio to apply in order to achieve a just and equitable division of the matrimonial assets (as defined in s 112(10) of the Women's Charter (Cap 353, 2009 Rev Ed)).

30 For long marriages such as the present one, where joint accounts have been used, the income approach is most suited. Furthermore, it has the benefit of simplicity. Using the parties' gross monthly pay (\$3,800 for the Wife and \$13,400 for the Husband), the Wife can be taken to have made 22% of the financial contributions (based on $\$3,800 / (\$3,800 + \$13,400) * 100\%$).

31 While this is their latest income and there is no evidence of the history of their income on an annual basis, any inaccuracy in using the ratio of their last drawn salaries would weigh in favour of the Husband as his career as an architect would have been built up over the years leading to his present position as Vice-President (Design) at an architectural and engineering firm, whereas the Wife's trajectory would not have been as steep, given that she was working in a family business from the time that the eldest daughter was an infant. Thus, while this estimate was conservative in relation to the wife, it was higher than the 12% of the matrimonial home argued by the Husband.

Non-financial contributions

32 I now turn to the non-financial contributions. The Wife, in the early part of the marriage, had a career in interior design. She gave this up shortly after the eldest daughter was born to work in her family business in order to have flexible hours to tend to the children. She was their primary caregiver until she left the home in 2005. I accept that even after 2005, she still visited and cared for the children. The fact that the two sons chose to live with her in 2013 showed that she maintained a close relationship with them throughout the period of separation.

33 The eldest daughter's care until she turned 18 was particularly consuming. The Wife ferried her to care centres. The daughter left the Spastics Children Association when she turned 18 in 2005. That was the same year the Wife left the matrimonial home; the daughter was thereafter cared for at home.

34 The Husband played a much larger role between 2005 and 2013, when all three children stayed with him.

35 In considering the Wife's indirect contributions, I took into account that care-giving for children

is hardest when they are young, especially for the child with cerebral palsy. Thus, the Wife bore the brunt of the home-making burden over the 31 year period under consideration, and it was the flexible hours obtained from giving up her career in interior design that allowed her to give the children the time that she was able to. For that reason, I ascribe a 65:35 allocation to the Wife and Husband respectively for their indirect contribution to the family.

36 Putting the two ratios together, I arrive at the following figures:

Party	Husband	Wife
Direct	78	22
Indirect	35	65
Averaging direct and indirect	56.5	43.5

Whether further adjustments necessitated

37 The Court of Appeal in *ANJ* (at [26]–[28]) stated that there would be cases where the court should make adjustments either to the weightage of the two ratios, or to the eventual ratio, having regard to the length of the marriage, the size of the assets, the nature and extent of the contributions, and other factors enumerated in s 112 of the Charter. This is a crucial last stage in the process because, in the family law context, an assessment must ultimately be made in the round: the specific division must speak to the justice and equity of the case between the parties. In this case, I took into account the fact that the Wife lived in rented premises for 10 years while Husband had the benefit of the matrimonial home. Looking at the overall facts of the case, I am of the view that the ratio should be set at 55:45 for the Husband and Wife respectively.

38 As a final safeguard, I tested this allocation against existing precedents. In *Lock Yeng Fun v Chua Hock Chye* [2007] 3 SLR(R) 520, for example, the marriage lasted around 30 years. There were two children of the marriage. The wife had been a homemaker from the start of the marriage and only worked for four months when the husband was retrenched in 1992. The Court of Appeal found that although the wife did not contribute financially to the acquisition of the matrimonial home, she shouldered the burden (solely – without any domestic help) of managing the household and taking care of her children (at [19]). She had also, by her own efforts and investment skill, increased the value of the family assets (by investing monies that the husband had given to her for household and miscellaneous expenses) (at [20]). The High Court awarded the wife 40% of the assets. The Court of Appeal increased this figure to 50%. In *ZD v ZE and Another* [2008] SGHC 225, the marriage lasted around 17 years, in which both parties had three children. Upon getting married, the wife was employed in one of the husband’s companies. The wife was held to have directly contributed 6% of the assets in the matrimonial pool. The High Court judge awarded her 35% of the assets. This figure was increased to 40% by the Court of Appeal (Civil Appeal No 152 of 2008). Thus, a 45% allocation to the Wife in this particular case would be within the range of expected results for this marriage.

Conclusion on division

39 Although the eventual figure of 45% (for the Wife) is not far off from the Judge’s figure of 46.5% (see above at [27]), the pool, as I have determined it, is significantly larger. On the figures above, 45% of the pool of \$3,559,486 yields \$1,601,769 (rounded to the nearest dollar). Of this, \$412,995 would be in the Wife’s sole name. The remainder, *ie*, the amount due to the Wife on the basis that parties each keep assets in their sole names, is \$1,188,774.

40 Arising from the falling property market, both counsel requested that a fresh valuation be sought for the matrimonial home. To this extent, their agreement on the valuation of the items that constituted the matrimonial pool was qualified. Instead of proceeding on the basis of the net value they (primarily, the Husband) had provided (*ie*, \$1,985,527), they requested a formula by which they could calculate the Wife's share depending on the valuation to be obtained. Both assured me they would be able to agree on a valuer. Taking the value of the matrimonial home as *X*, the monetary value of the sum owed to the Wife from her husband's and the joint assets would be 45% of $[(X - \text{outstanding loan and costs and expenses of transfer} + \$1,573,959) - \$412,995]$. Using this approach, [39] functions as a worked example with reference to the net value of the matrimonial home (*ie*, *X* - outstanding loan and costs and expenses of transfer) being set at \$1,985,527.

Maintenance for the Wife

41 The Wife is at present unemployed because the family business in which she worked had undergone restructuring. The Judge awarded the Wife monthly maintenance of \$3,000 for a period of one year, with the order covering both her and the youngest son up to August 2013, when he turned 21. After 31 March 2016, the maintenance would be \$1 per month. Both parties have appealed against this order.

Arguments on appeal

42 The Husband argues that the Judge's order should be set aside and that he should only be paying \$1 in monthly maintenance to the Wife. This is because (a) the Wife is capable of earning enough money to support herself, as demonstrated by her earning capacity "in the region of \$4,000" [\[note: 4\]](#) and (b) the Husband's own financial needs render him incapable of paying \$3,000 in monthly maintenance. In support of the latter, he notes that of his \$12,682 take home pay, he spends about half (\$6,600) to pay his income tax and service his mortgage loan. That leaves him about \$6,000 to pay for his household expenses and bills and the daughter's expenses (which he estimated at \$300 in his first Affidavit of Assets and Means) and his own personal expenses. [\[note: 5\]](#)

43 On the other hand, the Wife argues the maintenance of \$3,000 as ordered by the Judge should extend up to the time "the Husband is unable to make any more payment when he retires". [\[note: 6\]](#) She argues she had to give up a career in interior design (to work in her family business) so as to take care of the children. She is currently 54 years old and does not have many skills (and therefore, her re-employment prospects are dim).

Quantum of maintenance

44 The Wife approximated her monthly expenses as \$4,662.98. The breakdown is as follows: [\[note: 7\]](#)

No	Item	Expense
1	Food	\$500
2	Transport	\$50
3	Utilities	\$350
4	Telephone/ Internet/ Mobile Phone/ Pager charges	\$265

5	Rental	\$1,500
6	Clothing	\$500
7	Groceries	\$200
8	Medication	\$100
9	Insurance Premiums	\$1,197.98 (\$14,375.85 / 12)
Total		\$4,662.98

45 In addition to the items listed above, she also listed expenses of \$1,589.28 for the maintenance of the two sons.

46 The Wife's list of expenses is largely reasonable, save in two areas. First, the \$1,589.28 claimed as expenses for the sons ought to be disregarded. Secondly, item 9 requires downward adjustment because (a) one of her policies has recently matured, [\[note: 8\]](#) and (b) the policies for the two sons ought to be excluded. [\[note: 9\]](#) The net effect of the downward adjustment is that the total sum of the Wife's reasonable expenses comes to about \$4,300 (rounded down to the nearest hundred). As such, I find that the maintenance amount of \$3,000 per month, as ordered by the Judge, is fair. This is fair for the Wife as not only should she, at the very least, be able to earn a salary of \$1,300 per month (which would make up for the remainder). This is fair from the Husband's perspective as it is well within his means. Even on his own account, he would be left with another \$3,000 to spend on himself and his daughter. Moreover, he would have bonuses and investment income.

Duration of wife's maintenance

47 The Judge ordered maintenance at \$3,000 a month for a year from the date of the ancillary hearing and thereafter a nominal sum of \$1 from March 2016. This order was for the youngest child and the wife until the former turned 21, and thereafter for the wife.

48 In the light of the Wife's employment history and her age, it would be difficult for her to find good employment quickly. Arising from this, the Husband's position that the Wife receive nominal \$1 maintenance is not appropriate. Neither, in my view, is an order for maintenance only until March 2016 appropriate. The Wife requires time to find employment and also to source for new housing arrangements. Given the Husband's wish to purchase her share of the matrimonial home, it would take time for the funds to be released from the transfer or sale of the property.

49 At the same time, a lump sum order is preferred to the continuing periodic order of indefinite duration as sought by the Wife. Although parties will continue to interact with each other in respect of the children, it would be beneficial for them to have fewer reasons for further litigation or acrimony. Certainty in a liquidated sum will also allow parties to plan for the long term care of their first child. The Husband is at present 60 years old. A period of five years from today would take him to the official retirement age. At least one of the two sons who live with the Wife should also be working by this time and able to contribute to family expenses. In my view, the sum generated by this 5-year multiplier is sufficient to iron out transitional issues, bearing in mind that the size of the Wife's share of the asset pool allows her to make longer term financial plans. The sums paid to date (some of which also include maintenance for the youngest child) are to stand.

50 I should mention that I considered the formula used in *Ong Chen Leng v Tan Sau Poo* [1993] 2 SLR(R) 545 ("*Ong Chen Leng*") and *Wan Lai Cheng v Quek Seow Kee and another appeal and another matter* [2012] 4 SLR 405 ("*Wan Lai Cheng*") and did not think it was appropriate to calculate the multiplier using that approach, which would have resulted in a multiplier of 13 in the present case. The wife in *Ong Chen Leng* had spent many years in a long marriage as a homemaker; the wife in *Wan Lai Cheng* had retired four years before the Court of Appeal's judgment. In the present case the Wife, who is 6 years younger than the Husband, has worked for much of the marriage – albeit in a less lucrative career than she would otherwise have enjoyed if not for her children – and is capable of doing so again after a period of transition. In contrast to the two cases, the parties here also have a continuing obligation to maintain their first child.

51 In such cases, the present value of that five year future income stream, adjusted for inflation, could be calculated as follows:

$$\sum_{t=0}^{T-1} P/(1+r)^t$$

(T = number of payment months, P = monthly maintenance payment, and r = monthly inflation rate).

52 For convenience, the median inflation rate over the last five years was used as the applicable inflation rate (on the basis that this serves as a predictor of the likely rate of inflation over the next few years). This was 2.8% per year, which works out to about 0.23% per month. It is assumed that maintenance of \$3,000 per month is paid at the end of each month in line with the Judge's earlier order, and that the inflation rate is uniform throughout the year. T hence equates to 60, P to 3,000 and r to 0.0023.

53 Applying the formula, I set the lump sum maintenance award at \$167,952 (rounded to the nearest dollar). As the Husband's evidence indicates that the Husband is able to pay this sum, at least out of the \$360,000 "kept at home", I order this to be paid within 14 days of today, rather than at the time of the transfer or sale of the matrimonial home.

Conclusion

54 For the reasons above and on the terms I have stated, the appeal is allowed, with specific orders as follows:

- (a) The orders for the care and control of the eldest daughter and for the education expenses of the two sons are set aside.
- (b) The Judge's order for maintenance of \$3,000 a month is to stand up to 31 August 2015. The remaining part of the order for maintenance for the Wife is varied to a lump sum of \$167,952, to be paid within 14 days of today.
- (c) The Husband has a first option to purchase the Wife's share in the matrimonial home. He is to exercise this option within three months of this order, failing which, (d) applies. Should he exercise this option, the following is to apply:
 - (i) First, a valuation is to be made on the matrimonial home by a valuer agreed by both parties.
 - (ii) Secondly, the Wife's share of the matrimonial pool is to be determined by reference to the guidance set out at [40] (with the valuation as X).

- (iii) Thirdly, the Husband is to pay the Wife her share of the matrimonial pool as calculated in (ii) (on the basis that both parties retain the assets in their sole names). The Wife is thereafter to transfer her share and interest in the matrimonial home to the Husband, and refund her own CPF contributions (including accrued interest) to her CPF account out of the sum of money paid to her.
- (d) In default of the Husband exercising his option in (b), the following shall apply:
- (i) First, the matrimonial home is to be sold in the open market.
- (ii) Secondly, the Wife's share of the matrimonial pool is to be determined by reference to the guidance set out at [40], with the sale proceeds rather than the valuation as X.
- (iii) Thirdly, the Wife's share (as calculated in (ii)) is to be deducted from the sale proceeds and paid to the Wife; the remainder is to be paid to the Husband. Each party is to thereafter refund their respective CPF contributions to their CPF accounts including accrued interest.
- (e) The Registrar of the Family Justice Courts is empowered to execute, sign or indorse all necessary documents relating to matters contained in this order on behalf of either party in the event of either party failing to do so within seven days of written request being made to that party.
- (f) Liberty to apply.

55 I shall hear counsel on costs as well as the directions for the suit to be filed under the Mental Capacity Act.

[\[note: 1\]](#) The Husband's Summary of Relevant Information dated 26 January 2015 (ROA Vol 5 at p 718). I use this figure for illustrative purposes; as will become evident, my final order requires parties to procure a valuation of the property.

[\[note: 2\]](#) The Husband transferred \$720,000 from this account to his POSB Savings Account (C) on 6 January 2013 and subsequently transferred \$770,000 from that account to his brother on 11 March 2013 (the Husband's Table of Matrimonial Assets dated 18 August 2015 at p 7). This amount was subsequently returned and he spent about half of it on various expenses (the Husband's Table of Matrimonial Assets dated 18 August 2015 at p 7). \$360,000 remains and he is holding this in cash (reflected in item no 23).

[\[note: 3\]](#) This "estimated value" is presumably based on the payout and not surrender value.

[\[note: 4\]](#) The Husband's subs in DCA [X] at para 60.

[\[note: 5\]](#) The Husband's subs in DCA [X] at para 56.

[\[note: 6\]](#) The Wife's subs in DCA [Y] at para 37.

[\[note: 7\]](#) ROA Vol 4 at p 504 and ROA Vol 2 at p 39.

[\[note: 8\]](#) ROA Vol 2 at p 52.

[\[note: 9\]](#) ROA Vol 2 at pp 56–57.

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