IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2017] SGHCF 14

Divorce Transfer No 5830 of 2014

Between

UBD

… *Plaintiff*

And

UBE

… *Defendant*

GROUNDS OF DECISION

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

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v
UBE

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Introduction

1 The plaintiff ("the Husband") and the defendant ("the Wife") married on 6 April 1988 in Singapore. They have two sons, aged 25 and 21 respectively. The Husband is a doctor and works as a general practitioner at his one-man clinic in Serangoon Central. The Wife, previously a teacher, has been a professional counsellor since September 2016.

2 The Husband moved out of the matrimonial home ("the Property") on 1 January 2011. Some three years later, on 9 December 2014, the Husband commenced divorce proceedings. Interim judgment ("the IJ") was granted on 19 January 2015 ("the IJ Date") by consent.

3 On 9 February 2017, I heard and dealt with the parties' ancillary matters, being: (i) the division of their matrimonial assets; and (ii) the appropriate maintenance for the Wife. The Husband has appealed, *vide*, Civil Appeal No 38 of 2017, and these grounds of decision explain my orders made.

Division of Assets

Constitution of the matrimonial assets

4 Parties were largely in agreement on the constitution of the pool of matrimonial assets and the respective values of these assets. The Husband's medical practice ("the Medical Practice") was the main point of contention. I deal with this first before setting out the overall matrimonial pool that was found liable for division.

Valuation of the Medical Practice

5 The Medical Practice is physically situated in a HDB two storey shophouse ("the Shophouse"). Parties agreed on a joint valuation in respect of the Shophouse.[1] As regards the Medical Practice, parties obtained a joint valuation report prepared by Acumen Assurance ("Acumen") dated 26 April 2016.[2] Acumen's desktop value of the Medical Practice based on their assessment ranged from an "indicative value" of S$12,000 to a "business value" of S$102,000. The indicative value was premised on the adjusted book value of the Medical Practice as at 31 December 2015, which is an accounting value calculated by subtracting the Medical Practice's total liabilities from its total assets. Acumen opined that "[c]onsidering the transactions of the [Medical Practice] are mainly cash transactions with little or no off balance sheet items, book value appears to be approximate to the fair value of the

1 Exhibit A at item 2.

2 Wife's 2nd Affidavit of Assets and Means, pp 169–179.

business". As for the business value, this was derived based on a discounted cash flow analysis of the Medical Practice's income and earning potential. Acumen opined that this value provided a "*highly accurate estimate of business value* based on the business earning potential" [emphasis added].

6 Notwithstanding the above, the Husband submitted that the Medical Practice should be valued at S$15,346, which was the figure for the net tangible assets of the clinic reflected on its balance sheet dated 31 December 2014.[3] In essence, the Husband argued that a book value based approach was more useful, echoing Acumen's observation that such an approach was appropriate for a "cash business" and thus proposed to use the higher figure of S$15,346. In response, the Wife submitted that an income based approach was more appropriate. The Husband had been operating the clinic since 1989 and was well established in the neighbourhood, and the clinic's profit over the last four years was about S$190,000 – a figure that was far higher than the book value based figures.

7 I agreed with the Wife that an income based approach was the better method of valuation in the circumstances. Even if the Husband chose to discontinue the Medical Practice, he would likely sell the business which has significant goodwill associated with it given its location in a HDB precinct and its existing clientele. Further, as noted by Acumen, such family clinics belonged to a "recession proof industry as the patients will consult doctor[s] regardless of the economic outlook. Walk in patients usually opt to visit [a] particular clinic for one of two reasons: its proximity to the patients' workplace or home to the clinic and the familiarity of the patients with the doctor practicing in the clinic."[4] While the income based method utilised a

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[3] Notes of Evidence dated 9 February 2017, p 1; Husband's 1st Affidavit of Assets and Means, p 5.

projection of cash flows for four years going forward, this anticipated cash flow would be similar to that used by any medical practitioner seeking to buy a practice within a HDB precinct. However, even though Acumen set the clinic's business value at S$102,000 under its income based analysis, I adopted a more conservative figure of S$80,000 because any contemplated sale of the Medical Practice would be dependent upon the vagaries of the market and buyer-seller uncertainties.

Other assets

8 The inclusion and valuation of most of the other matrimonial assets were agreed between the parties, save in relation to the following assets to which I turn.

9 In respect of the Husband's shares in DBS Bank, there was initially a dispute as the Wife's submission put the figure as S$74,450, whereas the Husband's submissions had used S$61,354.[5] Counsel for the Wife clarified at the ancillaries hearing, however, that S$74,450 was the value of the DBS shares used by the Husband himself in his 1st Affidavit of Assets and Means.[6] Counsel for the Husband therefore agreed to using this figure of S$74,450 to value the DBS shares.

10 Regarding the parties' personal bank accounts, three DBS bank accounts on the part of the Husband, and two POSB accounts on the part of the Wife, I used the figures of the deposited sums nearest to the IJ Date.[7] In my view, this was appropriate in the context of this case.

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4 Wife's 2nd Affidavit of Assets and Means, p 173.

5 Husband's Written Submissions, p 12.

6 Notes of Evidence dated 7 February 2017, p 2; Husband's 1st Affidavit of Assets and Means, p 5.

11 The legal context should first be set out before we turn to the case on the facts. The Court of Appeal has reiterated, after I gave my decision, that generally, once an asset is regarded as a matrimonial asset, it ought to be valued as at the date of the ancillaries hearing, unless a departure is warranted by the facts ("the Valuation Rule") (see *TND v TNC and another appeal* [2017] SGCA 34 ("*TND v TNC*") at [19], commenting on *TDT v TDS and another appeal and another matter* [2016] 4 SLR 145 ("*TDT v TDS*") at [50]). This Valuation Rule comes logically subsequent to a preceding inquiry: whether any particular asset forms part of the matrimonial pool in the first place. For this preceding inquiry, which involves determining the appropriate operative date for delineating the pool of matrimonial assets, the law set out by the Court of Appeal is that "unless the particular circumstances or justice of the case warrant it, the starting point or default position should be the date that interim judgment is granted" ("the Delineation Rule") (see *ARY v ARX and another appeal* [2016] 2 SLR 686 at [31]). Two separate default operative dates are therefore relevant for dividing matrimonial assets: for delineation issues, the date of the interim judgment generally prevails; for valuation matters, the default position leans in favour of the date of the ancillaries hearing.

12 In this case, I was of the view that a departure from the default position under the Valuation Rule was warranted in relation to the bank accounts: these bank accounts were delineated and valued as at the IJ Date instead. This was because the parties had lived separate and independent lives for more than 6 years since January 2011 when the Husband moved out of the matrimonial home. It was thus a reasonable expectation on their part that they would be free to spend from their bank accounts as they saw necessary from the date at

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[7] Notes of Evidence dated 7 February 2017, p 1.

which their separation formalised (*ie*, the IJ Date), without having to account *ex post* for or rebut contentions of wrongful dissipation. Therefore, if either spouse, for instance, invested funds from his or her bank account, it would be just and reasonable that he or she should have to bear the liabilities of, or enjoy the profits from, such investment, so long as the original funds used for that investment were restored to the common pool (*Yeo Chong Lin v Tay Ang Choo Nancy and another appeal* [2011] 2 SLR 1157 ("*Yeo Chong Lin*") at [40]).

13 In the present case, a further benefit would accrue if both the delineation and valuation dates for the bank accounts were set as the IJ Date: this would minimise the incentive for, and any subsequent argument about, issues of wrongful dissipation from these accounts post-IJ. Particularly in relation to bank accounts, this would enable much desired simplicity and certainty in the litigation process. Indeed, at least in the present case, if the court held otherwise that the valuation date of such liquid assets was the date of the ancillaries hearing, which took place long after the IJ Date and after both parties had clearly started to lead separately financial lives utilising funds from their largely segregated bank accounts, unfairness may result from the division process: neither party would had been able to expend what they commonly and reasonably hold to be separate funds with a peace of mind. Instead, going forward, a perverse incentive for attempted dissipation in the interim between the date of the IJ and the date of the ancillaries hearing may be created in the shadow of the law.

14 In considering the above, a distinction may usefully be drawn between bank accounts and other kinds of assets. This is because funds in bank accounts are by their nature easily moved or spent; concerns about deterring wrongful dissipation and permitting legitimate expenditures thus come

prominently to the fore. In contrast, different considerations often underlie the division of other properties. In particular, for real properties, values may fluctuate significantly between the date of the IJ and the date of the ancillaries hearing. The accommodation needs of the family may require realisation of particular properties: in a falling market, if the valuation date is much earlier, hardship may arise; conversely, in a rising market a division using too early a valuation may result in the allocation carrying an unintended and uneven windfall effect. In this context, the Court of Appeal has allowed, in *Yeo Chong Lin* at [39], that "there is nothing to preclude the court from applying different cut-off dates to different categories of assets if the circumstances so warrant".

15 In the result, I chose the figures of the funds in these accounts that were closest to the IJ Date for the asset pool.[8]

Table of matrimonial assets

16 Parties' pool of matrimonial assets were therefore as follows:

<table>
<tr><th colspan="4">Matrimonial Assets that are Jointly Held</th></tr>
<tr><th>S/N</th><th>Asset Description</th><th>Value</th><th>Comments</th></tr>
<tr><td>1</td><td>The Property</td><td>S$2,900,000.00</td><td rowspan="2">Agreed; current value based on joint valuation report.[9]</td></tr>
<tr><td>2</td><td>The Shophouse</td><td>S$2,400,000.00</td></tr>
<tr><td colspan="3">Sub-Total</td><td>S$5,300,000.00</td></tr>
<tr><th colspan="4">Matrimonial Assets in Husband's Possession</th></tr>
<tr><th>S/N</th><th>Asset Description</th><th>Value</th><th>Comments</th></tr>
<tr><td>1</td><td>Insurance Policies</td><td>S$442,312.83</td><td>Agreed[10]</td></tr>
</table>

8 Notes of Evidence dated 7 February 2017, p 1.

9 Exhibit B, p 4.

2	Medical Practice	S$80,000.00	Based on income method: see above at [5]–[7]
3	DBS shares	S$74,449.98	Agreed: see above at [9]
4	SingTel Ltd shares	S$778.60	Average of two figures proposed[11]
5	DBS Autosave Plus Account No. XXX-XXX265-2	S$212,122.01	Value closer to the IJ Date: see [10][12]
6	DBS Savings Plus Account No. XXX-X-XX4583	S$301,092.66	
7	DBS Fixed Deposit Account No. XXX-XXXX03-05	S$13,114.14	
8	POSB Passbook Savings Account No. XXX-XX217-0	S$16,070.18	Agreed[13]
9	CPF Ordinary Account	S$31,872.68	
10	CPF Special Account	S$1,949.14	
11	CPF Medisave Account	S$49,800.00	
12	CPF Retirement Account	S$88,861.66	
13	Country Club	S$21,400.00	

[10] Exhibit B, p 5.

[11] Exhibit B, p 5.

[12] Husband's 1st Affidavit of Assets and Means, pp 3–4.

[13] Exhibit B, pp 6–7.

	Membership		
14	Motor Vehicle (Toyota)	S$29,752.00	Agreed[14]
Sub-Total			**S$1,363,575.88**
Matrimonial Assets in Wife's Possession			
S/N	**Asset Description**	**Value**	**Comments**
1	POSB Account No. XXXXX9458	S$58,000.00	Value closer to IJ Date[15] : see [10]
2	POSB Account No. XXXXX1557	S$3,211.00	
3	Insurance Policies	S$208,733.82	Agreed[16]
5	CPF Ordinary Account	S$34,529.54	
6	CPF Medisave Account	S$48,309.70	
7	CPF Retirement Account	S$161,000.00	
Sub-Total			**S$513,784.06**
Total			**S$7,177,359.94**

Division of the asset pool

Assessment methodology

17 There are two methodologies which may be applied in clustering matrimonial assets in preparation for division: (a) the global assessment

14 Notes of Evidence dated 9 February 2017, p 1.

15 Wife's 1st Affidavit of Assets and Means, p 7.

16 Exhibit B, p 7.

methodology, which entails the court applying one ratio to the global pool of identified matrimonial assets; and (b) the classification methodology, which requires the court to classify the matrimonial assets and thereafter determine and apply separate ratios to each class of the assets (see *NK v NL* [2007] 3 SLR(R) 743 ("*NK v NL*") at [31]–[33]).

18 The Husband contended that the classification methodology should be used because the parties' direct contributions across the matrimonial assets were varied.[17] While joint contribution was conceded for some assets, these were in varying proportions, and the Husband contended that the Wife made no financial contribution at all to his Medical Practice or the motor vehicle.

19 As noted by the Court of Appeal in *NK v NL* (at [33]), the statutory *imprimatur* of s 112 of the Women's Charter (Cap 353, 2009 Rev Ed) ("WC") requires the court to consider and apply the methodology that would result in a "just and equitable" division of the matrimonial assets based on the facts of each case. In my view, the following fact patterns may render the classification methodology more suitable than the global assessment methodology:

(a) Where an adverse inference is drawn against a party in relation to one class of asset and the court wishes to confine the consequences of that adverse inference to the relevant class of assets (see, *eg*, *NK v NL* at [33]; *BJZ v BKA* [2013] SGHC 149 at [73]).

(b) Where there is a clear reason to make a different *ANJ v ANK* [2015] 4 SLR 1043 ("*ANJ*") calculation in relation to a class of assets. In this regard, because indirect contributions are to be assessed in hindsight with full appreciation of the context of the marriage, the ratio

[17] Husband's Written Submissions, para 25.

> for indirect contributions should remain constant in relation to all assets even under the classification methodology (see *AYQ v AYR* [2013] 1 SLR 476 at [22]-[23]). There could, nonetheless, be reason to attribute a different direct contribution ratio to a specific class of assets (see, *eg*, *TNC v TND* [2016] 3 SLR 1172 at [44] and *TND v TNC* at [35] where pre-marriage properties were differentiated), or to use a different weightage of the direct and indirect ratios in the third stage of the *ANJ* analysis.

20 In this case, the Husband's submission urging the classification methodology appeared to be premised primarily upon the fact that the parties had made different direct and financial contributions to different matrimonial assets.[18] He pointed out that his direct contribution featured in varying strength across the entire range of the matrimonial assets, whereas the Wife's direct contribution was limited to specific matrimonial assets.

21 I did not accept the Husband's submission. In this case, all of the matrimonial assets were accumulated during the marriage and represented the result of the parties' joint efforts. The Wife's support would have assisted the Husband across the range of financial acquisitions over the course of the marriage. The Husband's greater direct contribution was a natural incidence of his higher income. A mere variance in direct contributions to different assets did not in itself militate against the global assessment methodology. Indeed, to granulate each asset in a class of its own simply because of a variance in direct contribution would not be desirable. In such cases where variation in direct contribution is the only factor in play, two points of principle favour the global assessment methodology. First, this methodology aligns with "the legislative mandate to… treat all matrimonial assets as community property… to be

[18] Husband's Written Submissions, para 25.

divided in accordance with s 112 of the [WC]" (*Lock Yeng Fun v Chua Hock Chye* [2007] 3 SLR(R) at [40]). Secondly, this legislative mandate, consonant with the Court of Appeal's guidance in *ANJ* (at [30]), is one that ought to be exercised in broad strokes, premised upon the court's feel as to what is just and equitable on the facts of the case.

22 Several reasons could ground good rationale to these points of principle. First, an over-intensive scrutiny of the minutiae of family accounts is often impractical. There may be motivations or habits underlying how spouses plan their finances and expenditures during the subsistence of the marriage, which could be arbitrary or tacit, upon which the law is unable to, and in any event should not, intrude. Thus, the High Court stated in *AJR v AJS* [2010] 4 SLR 617 (at [22]), that "in most marriage partnerships it is largely fortuitous as to which party contributes direct towards the acquisition of matrimonial assets… and which party pays for other family expenditure". The same fortuity exists in respect of how spouses in ordinary relationships apportion their finances towards the acquisition of different matrimonial assets. If varying contributions to different assets could in itself justify a different substantive outcome in the division of matrimonial assets, the court may be seeking meaning where none can – and should – be found.

23 Given such practicalities of married life, the court should be slow to adopt any practice that could well subvert "the philosophy of marriage being an equal partnership" (*TNL v TNK and another appeal and another matter* [2017] 1 SLR 609 ("*TNL v TNK*") at [44]). Parties do not live their lives in anticipation of marital breakdown, nor should they feel compelled or incentivised to do so by legal rules which attempt to unravel and colour the intricacies of their familial decisions *ex post facto*. Viewing the fruit of their

marriage in a holistic manner, in general, better upholds the institution of marriage as a partnership of joint efforts.

24 A third and more general point is that in the general run of family cases, simplicity could be an integral aspect of access to justice. Thus, Thorpe LJ observed (at [22]) in the English Court of Appeal decision in *Parra v Parra* [2003] 1 FLR 942 ("*Parra*"):

> The judgment that emerged is a tribute to the judge's exhaustive investigation of a mass of detailed evidence. The result is painstakingly thorough. But *the outcome of ancillary relief cases depends upon the exercise of a singularly broad judgment that obviates the need for the investigation of minute detail* and equally the need to make findings on minor issues in dispute. The judicial task is very different from the task of the judge in the civil justice system whose obligation is to make findings on all issues in dispute relevant to outcome. The quasi-inquisitorial role of the judge in ancillary relief litigation obliges him to investigate issues which he considers relevant to the outcome even if not advanced by either party. Equally he is not bound to adopt a conclusion upon which the parties have agreed. But *this independence must be matched by an obligation to eschew over-elaboration and to endeavour to paint the canvas of his judgment with a broad brush rather than with a fine sable. Judgments in this field need to be simple in structure and simply explained.*
>
> [emphasis added]

25 For completeness, I deal with two other justifications offered by the Husband in support of the classification methodology, neither of which I found persuasive. To the extent that the Husband was relying on his greater direct contribution (compared to the Wife's) in absolute terms, both the global assessment and classification methodologies, appropriately applied, were equally capable of addressing his concern. The Husband further suggested that the classification methodology would lead to a more just and equitable division as the matrimonial assets had been acquired and utilised for different purposes.[19] He did not, however, particularise what these purposes were, or

cite any precedents in support. It would appear to me commonsensical that in the ordinary nature of things, different assets would be used for different purposes at different times and in different situations in a marriage, and such could not in itself ground a distinction. For the foregoing reasons, I adopted the global assessment methodology.

Applying the ANJ approach

26 The Court of Appeal's structured approach, first set out *ANJ* (at [17]–[30]), was summarised in three broad steps set out in *Twiss, Christopher James Hans v Twiss, Yvonne Prendergast* [2015] SGCA 52 (at [17]), and reiterated recently in *TNL v TNK* at [37], as follows:

> (a) express as a ratio the parties' *direct contributions* relative to each other, having regard to the amount of *financial* contribution each party made towards the acquisition or improvement of the matrimonial assets ("Step 1");
>
> (b) express as a second ratio the parties' *indirect contributions* relative to each other, having regard to both indirect *financial* and *non-financial* contributions ("Step 2"); and
>
> (c) derive the parties' overall contributions relative to each other by taking an average of the two ratios above, keeping in mind that, depending on the circumstances of each case, the direct and indirect contributions may not be accorded equal weight and one of the two ratios may be accorded more significance than the other ("Step 3").

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[19] Husband's Written Submissions, para 26.

Step 1: Direct contribution ratio

27 In respect of the parties' direct contributions, the Wife proposed a ratio of 75.76:24.24 in favour of the Husband, whereas the Husband initially proposed a range of ratios for different assets but later settled on the global ratio of 87.5:12.5 in his favour.[20]

28 The main reason for the difference in proposed ratios lay with the parties' respective purchases for the furnishing of the Property and its renovation in 2010. The Wife included in her calculations various alleged purchases including furniture, appliances and decorative artefacts amounting to some S$81,452.00,[21] while the Husband included in his calculations his payment towards repairs of the Property totalling some S$29,685.84.[22] However, in my view, these payments were more appropriately considered as indirect, rather than direct, contributions. Hence, taking these out from the calculations, the direct contribution ratio for the Property would be around 445,165:76,093 and that for the Shophouse would be 1,226,778:147,845 (or 85.4:14.6 and 89.2:10.8 respectively).[23] Applying these ratios to the assessed values of the Property and the Shophouse correspondingly, the Wife's direct contribution to the Property and Shophouse would amount to about S$682,000 in total. Adding this figure to the Wife's assets valued at around S$513,784.06 that were in her sole name (as the Wife contended should be done and the Husband appeared to accept),[24] the Wife's direct contribution would amount to some S$1,196,000. Dividing this figure by the value of the total matrimonial

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20 Exhibit B, p 12.

21 Wife's 2nd Affidavit of Assets and Means, pp 64–124; Exhibit B, p 12.

22 Husband's 1st Affidavit of Assets and Means, p 24; Exhibit B, p 12.

23 Notes of Evidence dated 9 February 2017, pp 2-3.

24 Wife's Written Submissions, para 71; Notes of Evidence dated 9 February 2017, p 3.

pool would lead to the conclusion that the Wife had made direct contributions of about 17% to the global matrimonial assets.

29 Accordingly, I held that the direct contribution ratio in Step 1 was 83:17 in favour of the Husband.

Step 2: Indirect contribution ratio

30 Parties were diametrically opposed on the indirect contribution ratio. The Wife submitted that her indirect contributions should be valued at 80% while the Husband's should be valued at 20%.[25] The Wife highlighted that she had been a full-time homemaker during the formative years of their children's lives. Even as the children grew older, she was their main source of support. It was only after the children were much older and settled that the Wife ventured out to pursue her own interests, obtaining her Masters in Professional Counselling and building her counselling business. The Wife also pointed to her sole responsibility for maintaining the matrimonial home at her own expense.

31 The Husband, on the other hand, submitted for an indirect contribution ratio of 80:20 in his favour.[26] He did not dispute that the Wife stayed at home as a homemaker for more than four years, but he stated that he had always been pulling his weight at home, including sending and picking up the children. Even his clinic hours had been structured around his family. He was also actively involved with the boys' school lives, helping them with their schoolwork, nurturing their hobbies, as well as teaching them how to cook. Further, he was the handyman of the family.[27]

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25 Wife's Written Submissions, para 73.

26 Husband's Written Submissions, para 133.

27 Husband's 1st Affidavit of Means and Assets, pp 34–56.

32 In addition, both parties contended that the other had behaved terribly. The Husband, upset over the Wife's relationship with a third party, submitted that a negative value should be ascribed to the Wife's alleged misconduct in "not only failing to contribute to the partnership of efforts", but also engaging in "conduct that fundamentally undermines the co-operative partnership of the marriage and harms the welfare of the other" (*Chan Tin Sun v Fong Quay Sim* [2015] 2 SLR 195 ("*Chan Tin Sun*") at [27]). The Wife, on her part, raised in her reply contentions such as emotional abuse by the Husband, his being inaccessible, and his being a womanizer.[28] These were not well substantiated and were raised only belatedly.

33 It was unfortunate that the parties involved their sons in this dispute. The older son wrote a brief e-mail dated 3 July 2016 which denied the Wife's allegations about the Husband and stated that he "ha[d] not witnessed [the Husband] verbally or psychological[ly] abuse [him], [his] brother or mother". The older son was of the opinion that the Husband was not an absent father, but rather, loving and willing to make the effort to partake in activities such as cooking, going out for dinners and having long, engaged conversations.[29] The younger son, requested similarly by the Husband for an affidavit, filed one in support of the Wife instead. The younger son read all the affidavits filed by both his parents before giving evidence that he wished to show support for his mother in gratitude for her care and contribution to his childhood.[30] From the younger son's affidavit, it was clear that the Wife had been a loving and involved mother. He confirmed that the Wife had been the main caregiver for his brother and him as they grew up, and he recounted various fond memories with her. He also affirmed that the role she had played in their lives was

28 Wife's 2nd Affidavit of Means and Assets, pp 1-28, 40.

29 Husband's 3rd Affidavit of Assets and Means, pp 120.

30 Younger Child's Affidavit, p 1.

"significant and instrumental" and that she "ha[d] always been a constant pillar of support" in his life.[31] The Husband followed on this thread with various other third party statements. These included e-mails from the Husband's sister completely contrary to the evidence provided by the younger son,[32] a written testimonial from the Husband's long-time friend,[33] more e-mails from more of his long-time friends,[34] as well as other supporting affidavits from his classmate, domestic helper, and friends.

34 As I mentioned to counsel, I did not find these testimonials helpful. They were clearly written to assist the Husband and were opinions of third parties without intimate and direct knowledge of the relationship between the parties and the relevant events throughout the years of marriage. Similarly, parties ought to consider whether polarising their children would bring any value to their case, as the court, in considering the reliability of such evidence, is well aware of the unique pressures that such witnesses face. In advancing their cases, parties ought to bear in mind that the court uses a broad brush approach in exercising its statutory discretion. Particularly in family cases, the desirability of having additional evidence must be *balanced responsibly* with, first, its probative value, and secondly, its effect on relationships that will subsist and remain important even after the spouses part ways. While adult children may not suffer the same mental wellness risks that minor children might, they are not immune to the stress of their parents' expectations, nor is the familial tension generated helpful in building the support structures that each parent would require as he or she ages.

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31 Younger Child's Affidavit, p 6.

32 Husband's 3rd Affidavit of Assets and Means, pp 83–85.

33 Husband's 3rd Affidavit of Assets and Means, pp 91–93.

34 Husband's 3rd Affidavit of Assets and Means, pp 100–101.

35 In this case, while it was undeniable that the Husband did spend time with the children, it was also clear that the Wife's indirect contributions outweighed his. In this regard, I took the Wife's evidence that the Husband had only woken up to his fatherly duties after the matrimonial proceedings began[35] with a generous pinch of salt. Rather, her greater indirect contribution *arose from the nature of their respective roles within the marriage*, *and not from any dereliction on the Husband's part*. She was the primary caregiver of the children through the years. Being a school teacher for many years gave her the liberty and resources to do so, and she also stayed home for a four-year period.

36 Further, contrary to the Husband's assertions, this was not a case for the application of *Chan Tin Sun*. Apart from merely citing the principles set out by the Court of Appeal in *Chan Tin Sun*, the Husband's submissions did not point out which aspects of the Wife's behaviour he was seeking to rely on in purporting to apply *Chan Tin Sun*.[36] As the Court of Appeal clearly emphasised – and I reiterate – "the hearing of the ancillaries is *not* intended to be another forum for parties to dredge up accusations and allegations relating to each other's conduct" [emphasis in original] (at [25]). Only misconduct that is both *extreme* and *undisputed* should be taken into consideration when the court exercises its powers under s 112(1) of the WC to order the division of the parties' matrimonial assets (at [25]).

37 In the circumstances, I was of the view that a 63:37 ratio in favour of the Wife was fair as Step 2 of the *ANJ* framework. This was a long marriage: 27 years until the IJ Date, and 24 years until the date of their separation. The Wife had been the primary caregiver of the children, although the Husband did

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35 Wife's 2nd Affidavit of Assets and Means, p 33.

36 Husband's Supplementary Written Submissions, paras 5–10.

play his part. The Wife also stayed home for more than four years to look after the children. The parties were likely to have been, by and large, content with the marriage for some 20 years, during which they achieved much as a couple, raising their children and building significant assets through joint sacrifice and effort. While the Husband moved out in the last four years, the Wife continued to look after the home and the children. The unhappiness on each side in the last 6 years or so must be seen in context and not form a bitter lens through which the entirety of their 27 years of family life is viewed.

Step 3: Final ratio for division

38 A simple average of the two ratios above yielded an overall divisional ratio of 60:40 in favour of the Husband. In *ANJ*, the Court of Appeal set out three relevant and non-exhaustive factors in determining if the relative weightage of the ratios should be adjusted: (a) the size of the matrimonial pool, (b) the duration of the marriage, and (c) the nature and extent of the parties' indirect contributions (at [27]). The Wife submitted that the derived ratio should be adjusted in her favour as the appreciation of the two real properties (*ie*, the Property and the Shophouse) was the result of her persevering efforts during the marriage and her looking after, furnishing, and decorating the Property.[37] As for the Husband, he submitted that the ratio should be adjusted in his favour due to (a) the Wife's rent-free occupation of the Property since the parties separated, and (b) the inequity of the situation where, according to him, he held the family together while the Wife disregarded him and carried on with her clubbing and drinking lifestyle.[38]

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37 Wife's Written Submissions, paras 116–132.

38 Husband's Written Submissions, paras 140–141.

39 In my judgment, there was no need for any adjustment to the average of the ratios. The matrimonial pool in this case was not extraordinarily large. The length of marriage was relatively long, and it was the *collective* effort of the parties that had built up the family's pool of assets. The direct contributions of the Husband were enabled only by the indirect contributions and sacrifices on the part of the Wife, particularly given that she had stayed home to take care of the children while they were at their youngest and most demanding. Further, the rent-free occupation during the period of separation was a voluntary act on the part of the Husband,[39] and subsisted only for the last four years. During this period, the children of the marriage also continued to live with the Wife in the Property.

40 Accordingly, in the round, the final ratio for division was 60:40 in favour of the Husband. This was a fair and equitable outcome taking into account all the circumstances and the ups and downs of their marriage.

41 In coming to this particular division, two countervailing considerations were in play as I contextualised the Court of Appeal's illuminating guidance in *ANJ* (at [30]) that: "The controlling principle has always been and remains that the court must approach the exercise with broad strokes based on its feel of what is just and equitable on the facts of the case."

42 The first was a consideration of two precedents in marriages of similar length: *Tan Hwee Lee v Tan Cheng Guan and another appeal and another matter* [2012] 4 SLR 785, where the Court of Appeal applied equal division in a marriage of 28 years, and *Yow Mee Lan v Chan Kai Buan* [2000] 2 SLR(R) 659, a High Court decision which has been cited by the Court of Appeal on many occasions, where equal division was applied in a marriage of 26 years.

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[39] Husband's 1st Affidavit of Assets and Means, p 42.

In both of these marriages of similar length, the wives made no direct financial contributions. In this case, the Wife had made some direct financial contribution, and the Husband had played his part at home. Parties had cooperated in the partnership of marriage over many years, and indeed, on the precedents, a range of up to half of the matrimonial assets was open to consideration, if such a division was just and equitable. I had in mind, nevertheless, a second consideration: that the Husband lived and worked at the Shophouse. After the marriage broke down, he had graciously moved out of the matrimonial home, allowing the Wife and their sons use of the Property during their period of separation. Whilst this was not itself a reason to adjust the Wife's ratio downwards, it was in my view a fair reason not to adjust it upwards either. It would not be equitable if the division compelled the Husband to liquidate the Shophouse or his Medical Practice at this stage in his life. In the circumstances, allocation of 40% of the assets to the Wife met both imperatives.

43 For the foregoing reasons, a 60:40 division in favour of the Husband, on the facts of this particular case, was in my judgment just and equitable: it gave appropriate dignity to their joint achievements together over the years to build home and hearth, and at the same time, left each party with a sound platform from which to move forward with their lives.

Implementation of asset division orders

44 The Wife's 40% share of the total matrimonial assets was about S$2,870,945. Taking into account the assets in her name, she should be paid the remainder due of around S$2,357,161, out of the proceeds of sale of the Property. Both parties had indicated that they wished to sell the Property during the ancillaries hearing.[40] Upon receipt of her share of the sale proceeds,

the Wife was to transfer all of her title, rights, and interest in the Shophouse to the Husband. As the division took cognisance of the Wife's CPF money invested in the Property and the Shophouse, she was ordered to refund to her CPF account these invested sums out of her share of the sale proceeds from the Property. The Husband did not have CPF money invested in the Property; while he had CPF money invested in the Shophouse, he would retain that asset. No CPF-related order was therefore needed in respect of the Husband. Parties were to retain the assets that were held in their sole names.

Maintenance for Wife

45 The Wife has been working as a counsellor since September 2016 and at the time of the hearing drew a monthly income of S$2,200.[41] The Husband earned around S$16,511.08 per month as a family physician.[42] The Husband, who had paid $1,500 per month for household needs up to the end of 2016, submitted that no maintenance should be payable to the Wife, as she was self-sufficient, received income from her counselling practice, and there was no evidence that she was wanting in funds.[43] Further, the Husband pointed out that he was 63 years old, and would continue to support the younger child who was in the second year of a three-year degree course in Australia.

46 The Wife, on the other hand, sought a lump sum maintenance of S$240,000 being a sum of S$1,000 per month for the next 20 years based on the premise that "the Wife is currently 56 years old and her needing a roof over her head for the next 20 years is not unexpected".[44]

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40 Notes of Evidence dated 9 February 2017, p 3.

41 Wife's Ancillary Matters Fact and Position Sheet, p 5.

42 Husband's Ancillary Matters Fact and Position Sheet, p 8.

43 Husband's Written Submissions, paras 159-162.

44 Wife's Written Submissions, paras 150-152.

47 In my judgment, the Wife was gainfully employed and, equipped with a Masters in Professional Counselling and her own established practice, she was appropriately resourced to continue and excel at her employment. The law encourages former wives who are able to gain self-sufficiency to do so (see, *eg*, *ATE v ATD* [2016] SGCA 2 ("*ATE v ATD*") at [31]). Further, the court's power to order maintenance is supplementary to the court's power to divide matrimonial assets (see *ATE v ATD* at [33]): the division of assets made in the Wife's favour in the present case was sufficient to secure her financial wellbeing. She and the children would, however, need to find new long term accommodation. I thus awarded the Wife a small lump sum of $15,000 to ease any transitional issues.

Costs

48 Neither party asked for costs. No order was thus made on costs.

Conclusion

49 In summary, the orders for the ancillary matters were as follows:

(a) The Property is to be sold on the open market within six months of the date of the order. Parties are to have joint conduct of the sale of the Property, with costs and expenses deducted from the proceeds of sale. The Wife is to receive S$2,357,161 of the proceeds of sale, and is to reimburse her CPF accounts with interest thereon out of her share of the sale proceeds.

(b) Upon receipt of her share of the sale proceeds of the Property, the Wife is to transfer her rights, title and interest in the Shophouse to the Husband. The Wife is to refund all monies owing to the CPF for the Shophouse to her CPF accounts with interest thereon.

(c) Parties are to retain all assets held in their own names.

(d) The Husband is to pay the Wife a sum of S$15,000 within a month from the date of the order, as lump sum maintenance for the Wife.

(e) No order on costs.

Valerie Thean
Judicial Commissioner

Yee May Kuen Peggy Sarah and Audrey Liaw Shu Juan (Liao Shujuan) (PY Legal LLC) for the plaintiff;
Parhar Sunita Sonya (S. S. Parhar Law Corporation) for the defendant.