IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2019] SGHCF 16

Divorce Transferred No 45 of 2017

Between

UYP

… *Plaintiff*

And

UYQ

… *Defendant*

GROUNDS OF DECISION

[Family Law] — [Matrimonial assets] — [Division] — [Long Dual-Income marriages]

UYP
v
UYQ

[2019] SGHCF 16

High Court (Family Division) — Divorce Transferred No 45 of 2017
Debbie Ong J
8, 22 May 2019; 6 June 2019

15 July 2019

Debbie Ong J:

Introduction

1 The plaintiff husband ("the Husband") and the defendant wife ("the Wife") were married on 14 July 1982. Interim judgment ("IJ") was granted on 13 April 2017. There are two adult sons of the marriage. This was a long marriage of nearly 35 years.

2 I highlighted to the parties that the joint summary of relevant information ("Joint Summary") they had jointly submitted is a key document which I would use as a summary of their latest submissions on their respective positions. I made it clear that their positions stated in this document would be used for my decision.

Division of matrimonial assets

3 The only issue before the court was the division of matrimonial assets ("MAs").

4 As a general position, the operative date for the *identification* of MAs is the date of the IJ, and all MAs should be *valued* at the date of the ancillary matters ("AM") hearing. Balances in the parties' bank and Central Provident Fund ("CPF") accounts are to be taken at the date of the IJ, as the MAs are the moneys and not the bank and CPF accounts themselves. Nevertheless, in this decision, where the parties had specifically agreed to use a value for the asset or liability as at a different date, I adopted that value.

Undisputed assets

5 The parties agreed on the value of the following MAs:

Name	Asset	Value ($)
Joint assets	Sian Tuan property	5,800,000
	Bukit Batok property	548,066
	Jalan Gumilang property	1,848,539
	Upper Bukit Timah property	1,338,660
	Jalan Besar property	1,333,060
	Shanghai property unit 10-09	433,040.40
	Shanghai property unit 12-04	433,040.40
	Shanghai property unit 16-10	433,040.40
	Standard Chartered Supersalary Account -2714	677.17

	UOB Savings Account -0415	1,879.39
	DBS China Personal Settlement Account -2218	13.85
Wife's assets	UOB Fixed Deposit -0016	50,786.58
	UOB Fixed Deposit -0017	51,414.18
	UOB Fixed Deposit -0018	52,393.43
	UOB Fixed Deposit -0019	449,540.63
	UOB Current Account -7013	25,039.43
	UOB Savings Account -0010	100,162.05
	POSB Savings Account -9990	67,827.74
	OCBC Fixed Deposit -9501	414,033.23
	OCBC Fixed Deposit Account -8501	103,285.14
	OCBC Supplementary Retirement Scheme Account -9171	15,303.15
	6000 AEI shares	3,750
	214,000 ASTI shares	11,128
	92,000 MDR shares	368
	Car	18,000
	CPF account	291,756.48
	Jewellery and watches	86,000
	Surrender value of insurance policies	119,415.05

Husband's assets	POSB Savings Account -4951	57,059.81
	UOB Savings Account -0415	1,879.39
	DBS China RMB Personal Settlement Account -6119	7,631.46
	DBS China Foreign Currency Personal Savings Account -6219	0
	DBS China Foreign Currency Personal Savings Account -6319	0
	DBS China Foreign Currency Personal Savings Account -6119	0
	HSBC Hong Kong Dollars Account -9292	9,314.96
	CPF account	210,518.88
	190 Singtel shares	710.60
	UOB Kay Hian Holding shares	564
	Watches, art and furniture	55,000

Assets agreed to be MAs which values are disputed

Husband's Chevrolet car

6 The Husband owned a Chevrolet car at the time of the IJ but sold it subsequently on 30 April 2018. While he accepted that it should be included in the MA pool, he submitted that it was worth $3,100 while the Wife submitted that it was worth $18,000.

7 The Wife's submission was based on a desktop valuation while the Husband tendered documentary evidence that the car was in fact sold for

$3,100. I preferred the Husband's submission and included the value of $3,100 in the MA pool.

Husband's insurance policies

8 The Husband submitted that his insurance policies had no surrender value. At the first hearing on 8 May 2019, the Wife highlighted that the Husband had surrendered an NTUC policy in April 2013 with a surrender value of $22,559.91. The Husband alleged that he had spent this money.

9 The policy was surrendered in 2013, around four years before the IJ date. As such, it is not unbelievable that the Husband had spent this sum and I did not return it to the pool.

10 At the second hearing on 22 May 2019, the Wife's counsel clarified that her submission was that the Husband had other insurance policies that he failed to declare. The Husband's counsel confirmed his instructions that there were no undeclared insurance policies. As the Wife did not tender any evidence to prove otherwise, I accepted the Husband's position.

Joint DBS China CNY Savings Personal Account -0138

11 The parties' joint DBS China account containing $115,136.21 as of 2002 was initially included in the Joint Summary. At the second hearing, the Husband's counsel clarified that this information was outdated as the money in the account had been used to purchase one of the Shanghai properties. The Wife's counsel disputed this as she alleged that the Shanghai property had been purchased with her savings and the sale proceeds from a Wuhan property. Her submission appeared to be that this sum should still be included in the MA pool.

12 Although the Husband disclosed this account in his first affidavit and had not tendered evidence that the account was closed, the latest bank statement available was from 2002. As this was a joint account, both parties were in a position to furnish more recent information. Since they had not done so, I found that it is unlikely that the account still contained $115,136.21 and I did not include this sum in the pool.

Assets disputed to be MAs

Wife's inheritance from her late mother

13 The Wife alleged that when her mother passed away in 2008, she received inheritance moneys of $197,252 that she eventually placed into her POSB Savings Account -9990. The account balance stated in the Joint Summary was $67,827.74 and the Wife had agreed that it was included in the MA pool (see [5] above). She nonetheless submitted that the full sum of $197,252 should be excluded from the pool. The Wife submitted that she used the money for family expenses when there was a shortfall in the family assets and since it was used to build the family wealth, she should be entitled to recover it. The Husband submitted that any inheritance moneys the Wife received had been spent or had intermingled with the MAs; the alleged sum should therefore not be removed from the MA pool.

14 The Wife had agreed in the Joint Summary that the sum of $67,827.74 currently in the POSB Savings Account -9990 were MAs, but her submission also appeared to be that as $197,252 were inheritance moneys, that sum of $67,827.74 in the bank account and a further sum of $129,424.26 ($197,252 - $67,827.74 = $129,424.26) should be taken out of the pool or returned to her. I note that the Wife admitted that the POSB Savings Account -9990 was also used to receive rental income from the various properties. As such, the inheritance

moneys were commingled with the MAs and were no longer separately identifiable. She also had the intention to use the moneys for the family. I did not deduct any alleged inheritance sums from the MA pool.

Younger son's scholarship bond-breaking fund

15 The Wife submitted that a sum of $243,477.30 should be set aside to pay for the penalty fee should the younger son decide to break his scholarship bond. The Husband submitted that there was no basis for reaching that figure, and no basis in law for excluding the money.

16 The Wife admitted that this was a precautionary measure as the younger son had not indicated that he intended to break his bond. As the moneys were in the Wife's bank accounts, they were MAs. There was no legal basis to remove this sum from the pool.

Sale Proceeds from Chuan Park

17 The Wife submitted that the sum contained in the UOB Fixed Deposit Account -0019 should be excluded from the MA pool. It contained the sale proceeds of the Chuan Park property, which was sold in April 2012. The sale proceeds of $423,000 were later placed into the UOB Fixed Deposit account that was valued at the time of the hearing at $449,540.63 (the difference in value arises from the accumulation of interest).

18 The Wife did not show any cogent reason to exclude the sale proceeds from the MA pool; this sum was included in the pool.

Husband's CPF withdrawal

19 The Husband withdrew $127,198.76 from his CPF account on 12 August 2011. He alleged that he had used the moneys for his personal expenses and his business ventures. The Wife submitted that this should be returned to the MA pool.

20 The sum was withdrawn in 2011, some years before the divorce proceedings arose. I accepted that the moneys had been spent by the Husband over the years, and that the Husband had not hidden or dissipated them in order to ring fence them from division. This sum was not included in the pool.

Rental income from Shanghai properties

21 The Wife alleged that the Husband received $589,326.84 in rental income from their jointly owned Shanghai properties from 2008 to 2018 which should be returned to the MA pool. The Husband alleged that he only received $518,191.79 and that the Wife had permitted him to use this money for his business ventures and daily expenses.

22 The Husband relied on an email sent in 2013 where the Wife told the Husband, "*You can have the Bt Batok unit rentals (more reliable source and higher than Shanghai rentals) if Shanghai unit is sold*". He submitted that this showed that the Wife was aware that the Husband was using the Shanghai rental income for his businesses. The Wife's response was that her intention was for the Husband to retain the Shanghai rental proceeds in his bank accounts, as the Wife had done for the Singapore rental income, and she had never consented to it being used for his businesses.

23 I did not think that the 2013 email went so far as to indicate that the Wife consented to the Husband using the money for his business ventures. The Husband did not tender any documentary evidence of the success or failure of his businesses in China that he apparently worked on from 2009 to 2011. He only gave a brief description of the businesses and why they failed. His stated reason is that he was unable to provide any evidence because he was "simply unemployed". I found that he has failed to account for how this sum of money was spent. This finding is buttressed by his claims that he spent his CPF funds (see [19] above), insurance policy moneys (see [8] above), at least $80,000 from the Wife (see [30] below) and the Shanghai lawsuit moneys (see [34] below) on the same business ventures or expenses during the same period of time. This would mean he spent a total of nearly $750,000 over the years. Given the huge sums expended on these alleged activities in China, I would have expected some documentary evidence of the businesses and their alleged failure.

24 I also note that at the hearing and in his written submissions, the Husband stated that if the court awarded him 50% of the MAs, he was willing to transfer the Wife a sum of $259,000 as her half share of this item; this suggested that he accepted that the Wife had an interest in the sum.

25 I found it appropriate in light of these circumstances to draw an adverse inference against the Husband in respect of the alleged use of moneys for his business dealings in China. He could be expected to give a fuller account than what he had given. To give effect to that adverse inference drawn, the sum of $518,191.79 (being the sum the Husband admitted he received) should be returned to the MA pool. I included it in the pool of assets.

Husband's allowance for his parents

26 The Wife alleged that the Husband gave $432,000 in allowance to his parents over the course of the marriage and this should be returned to the MA pool. This calculation was based on the assumption that he gave $1,000 a month for 36 years. The Husband could not recall the exact sum he has given his parents over the years and submitted that he should not be made to return it.

27 There was no evidence that the Husband had transferred this sum to his parents. Even if he had done so, this was a reasonable sum over more than 30 years and there was no basis shown for returning it to the MA pool.

Money from Husband's mother

28 The Wife pointed out that the Husband received a total of $310,052.64 from his mother and submitted that this sum must belong to the Husband. At the second hearing, the Wife's counsel clarified that her submission was that the Husband had hidden these moneys with his mother prior to the divorce proceedings and the mother was returning that to him. The Husband denied hiding any money with his mother. He alleged that his mother transferred this sum to him upon finding out about his divorce proceedings in order to assist him, and he had since returned some of these moneys to her. The Wife admitted that there were transactions that reflected the return of some money, but submitted that he only returned a sum of $217,000, leaving a sum of around $93,000 still unaccounted for.

29 If the Wife's position was correct, the $93,000 should already be in the Husband's possession and included in his bank accounts. It is not clear what exactly the Wife sought to include in the pool – the $93,000 that was already with the Husband or the $217,000 that was transferred to the Husband's mother

as well. I found it more likely that the money belonged to the Husband's mother, who loaned it to the Husband, and that the Husband had repaid her in part. The Wife's acceptance that the Husband had paid part of this sum to the mother supports this inference that it was in the nature of a loan. It would appear that the Husband still had a debt owing to his mother of $93,000. As he intended to pay his mother back from his share of the MAs, there was no need to exclude this sum from the pool.

Wife's 2010 and 2013 loans to Husband

30 The Wife alleged that she loaned $163,000 to the Husband in 2010. She tendered a loan agreement signed by both parties. The Husband accepted that the document was genuine but alleged that he never received the full sum. He admitted to receiving $80,000 from the Wife in 2010 that was applied towards his business ventures, but submitted that these were gifts.

31 The Wife also alleged that she loaned $60,000 to the Husband in 2013. She tendered a copy of a cheque dated 15 November 2013 for $60,000 made out to the Husband's name from her account, with a handwritten annotation that stated, "*Loan to [Husband] for [Husband's brother's] medical needs*". The Husband's position was that this was a gift to his brother for his medical treatment and he merely acted as an intermediary; further it was "from the family's pool of assets".

32 I note that in *AZZ v BAA* [2016] SGHC 44, the High Court declined to take into account an alleged inter-spousal debt because the division of MAs is not an appropriate occasion on which to resolve what is effectively a civil claim (at [168]). Under the regime in s 112 of the Women's Charter (Cap 353, 2009 Rev Ed) ("Women's Charter"), the assets of both parties acquired during

marriage are pooled together as "matrimonial assets". Thus the source of the loans, if acquired by one party to the marriage, would have been MAs. An inter-spousal loan would not result in a change in the size of the overall MA pool, because the loan moneys would merely be transferred from one party to the other. Had the spouse used the loan moneys to invest and reaped profits, these profits would have been "gains" characterised as MAs as well.

33 In the present case, there were also factual disputes over the existence or size of these loans. These moneys, if acquired by the Wife during marriage, would have been MAs in the first place. These sums cannot be treated the way they might have been had they been proven to be due to third parties. I did not accept the Wife's submission that these alleged loans should be treated as the Husband's liabilities which the Husband had to account for separately. There is no reason to exclude the alleged sums from the pool to be divided.

Sum of $127,740.73 from Shanghai properties

34 The Wife alleged that in 2015, the parties recovered $127,740.73 (RMB 608,289.20) from a lawsuit in China and the Husband retained the whole sum. The Husband admitted that he received the moneys but alleged that the Wife permitted him to apply it towards his failed business ventures. I had observed above that the Husband offered very little in his account of these business ventures, their failure and evidence supporting their losses or gains.

35 The Husband did not tender proof that the Wife consented to him using this sum for this purpose. It was also undisputed that the parties had separated by this time, and I did not find it likely that the Wife would have consented to such use. As this sum was derived from the jointly-owned Shanghai properties, and the Husband did not fully account for it, I included it in the pool. As the

Husband had included these recovered damages in calculating the $518,191.79 that he admitted receiving from the Shanghai properties which had been added to the pool at [21] to [25] above, it was not included as a separate asset in the final pool.

Total value of MA pool

36 The total value of the pool of MAs is set out here:

Name	Asset	Value ($)
Joint assets	Sian Tuan property	5,800,000
	Bukit Batok property	548,066
	Jalan Gumilang property	1,848,539
	Upper Bukit Timah property	1,338,660
	Jalan Besar property	1,333,060
	Shanghai property unit 10-09	433,040.40
	Shanghai property unit 12-04	433,040.40
	Shanghai property unit 16-10	433,040.40
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	UOB Fixed Deposit -0017	51,414.18
	UOB Fixed Deposit -0018	52,393.43

	UOB Fixed Deposit -0019	449,540.63
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	POSB Savings Account -9990	67,827.74
	OCBC Fixed Deposit -9501	414,033.23
	OCBC Fixed Deposit Account -8501	103,285.14
	OCBC Supplementary Retirement Scheme Account -9171	15,303.15
	6000 AEI shares	3,750
	214,000 ASTI shares	11,128
	92,000 MDR shares	368
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	HSBC Hong Kong Dollars Account -9292	9,314.96
	CPF account	210,518.88

	190 Singtel shares	710.60
	UOB Kay Hian Holding shares	564
	Watches, art and furniture	55,000
	Chevrolet car	3,100
	Rental income and recovered damages from Shanghai properties	518,191.79
	Total Value	14,894,190.68

Legal principles in dividing MAs in "such proportions as the court thinks just and equitable"

37 Having determined the total pool of MAs, the next step is to divide this pool in "such proportions as the court thinks just and equitable": s 112(1) of the Women's Charter. The court's discretion in this exercise is guided by the factors in s 112(2) and the underlying philosophy of marriage as an equal partnership of different efforts. I discuss the legal principles especially relevant to the present facts, which concerned a long Dual-Income marriage of 35 years.

Historical context

(1) Pre-1996 provision

38 The court's power to divide MAs in section 112 of the Women's Charter was worded differently in the former s 106, prior to the amendments made through the Women's Charter (Amendment) Act 1996 (Act 30 of 1996) ("the Amendment Act"). In particular, assets were grouped into those acquired by the parties' joint efforts and those acquired by one party's sole effort. In ordering the division of the former group of assets, the court "shall incline towards

equality of division"; in the latter group, the party who acquired the assets by his or her sole effort "shall receive a greater proportion" of those assets.

39 In the 1996 Parliamentary debates discussing the proposed amendments to the former section 106 of the Women's Charter, the then-Minister for Community Development pointed out that an anomaly existed in the pre-1996 provision (see *Singapore Parliamentary Debates, Official Report* (2 May 1996), "Women's Charter (Amendment) Bill" vol 66 at col 91 (Mr Abdullah Tarmugi, Minister for Community Development)): where an asset was acquired jointly, the provision did not require the court to take into consideration the home-making efforts of any party. Thus, a homemaker wife would lose out if her contribution in money, work or property was small. However, if she had not contributed to the acquisition of the asset, the provision directed that the home-making efforts of a party shall be taken into consideration by the court so it would seem more advantageous for the homemaker not to have made any contribution in money, property or work.

(2) The 1996 Amendments

40 The Amendment Act removed the different treatment of jointly and solely acquired assets and enlarged the circumstances that the court should take into account in determining a just and equitable division. The anomaly described above was thus also removed. A definition of "matrimonial asset" was added into the amended provision; this definition, found in the current s 112(10), made no distinction between jointly and solely acquired assets. Instead, it focused on assets acquired or substantially improved *during marriage* by the *efforts* of the parties, or used by the family.

41 With these changes, the direction to "incline towards equality of division" was also deleted. The main concerns raised in the debates were that the spouses who did not contribute financially to the assets would be placed at a disadvantage with the removal of the phrase since their non-financial contributions to the marriage might not be deemed as important; and the deletion of the phrase would signal to the courts that they need not incline towards equality when deciding on the division of assets. To these concerns, the Minister responded (see *Singapore Parliamentary Debates, Official Report* (27 August 1996), "Women's Charter (Amendment) Bill" vol 66 at col 527 (Mr Abdullah Tarmugi, Minister for Community Development)):

> … the law must provide for all cases, *ie*, marriages of long as well as of short duration, and marriages under unusual sets of circumstances. For example, where a marriage is of short duration with no children, the law must not put judges under constraint to incline towards equality when what is equal may not be just. The Committee is of the view that the provisions of the Bill are fair. Indeed, it is a better formulation than the current one.

42 The Minister had also earlier affirmed that (see *Singapore Parliamentary Debates, Official Report* (2 May 1996), "Women's Charter (Amendment) Bill" vol 66 at col 91 (Mr Abdullah Tarmugi, Minister for Community Development)):

> In fact, a working and contributing woman will be better off under the proposed amendments, as the courts can now also take into consideration her home-making efforts, regardless of the extent of her contribution to the assets. This would provide for a fairer distribution of assets than the current provisions.

43 Thus the amendments were aimed at ensuring that home-making efforts are given due recognition in the division of all MAs, whether they are jointly or solely acquired. The Court of Appeal observed in *NK v NL* [2007] 3 SLR(R) 743 ("*NK v NL*") at [27]: "the abolition of the s 106 distinction

between joint and sole acquisition of assets paves the way for the court to put financial and non-financial contributions on an equal footing".

Decisions on the court's exercise of discretion in s112

44 The Court of Appeal in *NK v NL* at [20] had explained the basis of the power to divide assets in the Women's Charter:

> The division of matrimonial assets under the Act is founded on the prevailing ideology of marriage as an equal co-operative partnership of efforts. The contributions of both spouses are equally recognised whether he or she concentrates on the economics or homemaking role, as both roles must be performed equally well if the marriage is to flourish. When the marriage breaks up, these contributions are translated into economic assets in the distribution according to s 112(2) of the Act.

45 In translating these contributions into economic assets to be divided, the court would exercise its discretion in "broad strokes": see *Lock Yeng Fun v Chua Hock Chye* [2007] 3 SLR(R) 520 ("*Lock Yeng Fun*") at [33]–[35] and *NK v NL* at [28]. A division order should thus reflect marriage as a partnership of equals. The exercise requires the fullest recognition of the married partners' different roles and efforts put into the marriage: for example, home-making efforts are recognised to be as equally important as breadwinning efforts. Although non-financial contributions, such as home-making, "are impossible to measure, and success on that front, intangible and difficult to define" (see *Lock Yeng Fun* at [39], citing Debbie Ong Siew Ling and Valerie Thean, "Family Law" (2005) 6 SAL Ann Rev 259 at 271 at para 13.31), they can be translated into a share of assets by the use of the "broad brush" approach. The "broad brush" approach, which is the established approach to asset division, does not require nor encourage the meticulous particularisation of each party's respective contributions.

46 More recently, in *ANJ v ANK* [2015] 4 SLR 1043 ("*ANJ v ANK"*), the Court of Appeal set out the structured approach for the division of assets. Under this approach, the court will, in the first step, ascribe a ratio that represents each party's direct financial contributions towards the acquisition of the MAs, relative to that of the other party. In the second step, the court will ascribe a second ratio to represent each party's indirect contribution to the well-being of the family, relative to that of the other party. The court then derives each party's average percentage contribution to the marriage. Further adjustments to this average ratio may be made after taking into account the other factors enumerated in s 112(2) of the Women's Charter as well as all relevant circumstances to arrive at a just and equitable division of the MAs: see *ANJ v ANK* at [22].

47 In *TNL v TNK* [2017] 1 SLR 609 *("TNL v TNK")* at [44], the Court of Appeal held that this structured approach would not be applicable to long "Single-Income Marriages", in order to ensure that homemaker spouses were not unduly disadvantaged in the division of MAs (at [44]):

> Our reconsideration of the *ANJ* approach in the context of Single-Income Marriages stems from the fact that [the] *ANJ* approach tends to unduly favour the working spouse over the non-working spouse. This is because financial contributions are given recognition under *both* Steps 1 and 2 of the *ANJ* approach. Under Step 1, the working spouse in a Single-Income Marriage would be accorded 100% (or close to 100%) of direct contributions. He or she would also be accorded a substantial percentage under Step 2 solely on the basis of his or her indirect financial contributions, and this could well be the case even if he or she made little or no non-financial contributions. On the other side of the equation, this means that the non-working spouse is, in this sense, doubly (and severely) disadvantaged.
>
> [emphasis in original]

The Court of Appeal observed that in long Single-Income marriages, the trends of precedents is the equality of division: *TNL v TNK* at [48].

48 The structured approach continues to apply to Dual-Income Marriages (*TNL v TNK* at [42]). In *UBM v UBN* [2017] 4 SLR 921 (*"UBM v UBN"*) at [66], I observed that, following the principles underscoring the decision in *TNL v TNK*, there was little reason not to also incline towards equality in *long* Dual-Income marriages in light of the philosophy of marriage as an equal partnership as well as trends in past cases.

49 The length of the marriage is a highly relevant and significant factor in the division of assets involving a long marriage. The High Court in *Loh Swee Peng v Chan Kui Kok* [2015] 3 SLR 1 provided this insight (at [33]):

> The factor which weighs most strongly with me is that this is, by any measure, a very long marriage. At the date of the hearing, the marriage had endured for 42 years. The longevity of the emotional, parental, social and economic bond between the spouses is to my mind a very weighty factor that overshadows all others. In particular, it causes the importance of the precise ratio of the parties' direct contributions which were made decades earlier and which I am now attempting assess decades later on imperfect and incomplete evidence to recede into the background. The length of the marriage is a factor which points towards the just and equitable division of the matrimonial assets being an equal division.

50 Professor Leong Wai Kum observed that in a majority of the 44 Court of Appeal cases which she analysed, the Court had either made an order of equal division or substituted the lower court's order with an order that came closer to equal division: Leong Wai Kum, *Elements of Family Law in Singapore* (LexisNexis, 3rd Ed, 2018) ("*Elements*") at para 17.187. These cases show that the "just and equitable" division of MAs generally does not stray far from equal division. I would say that this is even more apparent in long marriages. Indeed the Court of Appeal in *TNL v TNK* affirmed that in long Single-Income marriages, the trends of precedents is the equality of division: *TNL v TNK* at [48].

51 I note that in *Lock Yeng Fun*, the Court of Appeal held that equality of division is neither a norm nor a starting point because s 112(1) of the Women's Charter requires the court to achieve a "just and equitable" division: at [55]–[57]. This is consistent with the discussions in the Parliamentary debates that the provision must provide for all cases, *ie*, marriages of long as well as of short duration, and marriages under unusual sets of circumstances: see [41]. The Court of Appeal has observed in *TNL v TNK* (at [48]):

> In *long* Single-Income Marriages, the precedent cases show that our courts tend towards an equal division of the matrimonial assets. We are in general agreement with this approach. We pause to highlight that different considerations may attach in short Single-Income Marriages, although we propose to leave that issue to be dealt with in an appropriate case in the future.

52 In long Single-Income marriages and long Dual-Income marriages, inclining towards equality remains consistent with *Lock Yeng Fun*. Further, even with respect to these categories of cases, inclining towards equality is not the same as a presumption of equal division, a norm of equal division, or a strict regime that each party shall be entitled to half the assets. Inclining towards equal division still allows the court to use its discretion to deviate from an exactly equal split, yet upholds the character of marriage and provides guidance to the court. Cases have their respective unique features and where these are of significance but are not exceptional within this context, inclining towards equality enables a just and equitable division. From Professor Leong's analysis, it appears that what is *not* inclining towards equality would be a division beyond the ratio of 60:40.

53 Applying the steps in *ANJ v ANK* in a rigid manner to long Dual-Income marriages but not long Single-Income marriages could lead to unfairness. It may lead to an anomaly similar to that raised in the Parliamentary debates on the

Amendment Act (see [38] to [43] above) – which is that it would seem more advantageous for a spouse who had taken on a heavy homemaking burden not to make any direct financial contribution towards acquisition of the assets than to earn a smaller income than the other spouse. For example, a wife in a long marriage who juggles career and homemaking but earns far less than her husband (who focuses largely on his successful career) will likely obtain a lower share of assets than a homemaker wife in a long Single-Income marriage who is likely to receive an equal share of assets under the approach in *TNL v TNK*. In the case of long marriages in general, there is little reason why a full-time homemaker spouse should generally be in a better position than a spouse who both worked and cared for the family but brought far less income into the marriage than the other spouse.

54 Inclining towards the equality of division would be less acceptable if all assets including pre-marriage assets and gifts received by the parties are all liable to be divided. If this were so, a party who is already very wealthy before marriage may find that at divorce, a substantial portion of his or her assets which has no connection to the marriage is awarded to the other spouse. This is not the position in Singapore. Under the Women's Charter, only the material gains of the marriage are divisible. In *UMU v UMT* [2019] 3 SLR 504 at [8], I observed:

> The definition of a matrimonial asset in s 112(10) of the Women's Charter (Cap 353, 2009 Rev Ed) ("the Charter") focuses on two key features: first, it is an asset acquired *by effort* and not by gift or inheritance, and second, it is an asset acquired *during* marriage or has a connection to the efforts of the spouses *during* marriage. Assets with these two characteristics have been described as "quintessential matrimonial assets": see Leong Wai Kum, *Elements of Family Law in Singapore* (LexisNexis, 3rd Ed, 2018) ("*Family Law*") at para 16.041; *TNC v TND* [2016] 3 SLR 1172 at [40]; *TND v TNC* [2017] SGCA 34 at [9]. Assets which do not have these characteristics may be "transformed" into matrimonial assets if they were ordinarily used or enjoyed by parties, constituted the matrimonial home or were

> substantially improved by the efforts of the parties *during* the marriage: see s 112(10) of the Charter.

55 Thus, unlike the UK position where even pre-marriage assets are liable to be divided, the position under the Women's Charter only provides for assets well-connected to the marriage to be divided as MAs.

56 In situations where a pre-marriage asset is "transformed" into an MA, the court may exclude the pre-marital value of pre-marital assets: see *TNC v TND* [2016] 3 SLR 1172; *TXW v TXX* [2017] 4 SLR 799; *UJF v UJG* [2019] 3 SLR 178; *BUX v BUY* [2019] SGHCF 4 at [22]–[24]. Where a gift is "transformed" into an MA by the parties' efforts that have substantially improved the asset, it is possible for the court to add only the value of the asset that is attributable to the improvement. Such an approach would ensure that only the material gains of the marriage are divided. As Professor Leong discussed in *Elements* at para 16.149, "[t]his leaves only the balance (its current value minus the value at time of acquisition) that is truly property which gained the close connections possessed by quintessential matrimonial asset at its acquisition."

57 It was never the intention of the Court of Appeal in *ANJ v ANK* to have the structured approach apply in a rigid manner. The Court of Appeal had emphasised in *ANJ v ANK* at [25]:

> We would reiterate that while we seek to bring in some system into the question of determining how the matrimonial assets of a marriage are to be divided, we do not pretend to be scientific. The broad brush is in no way replaced as we recognise all too clearly that in any marriage many things are done unrecorded – out of love, concern and responsibility – and not with the view to building up a case in the event the marriage fails. It would be a sad day for the institution of marriage if parties were to enter into a marriage with a mental outlook of tracking their contributions towards the marriage.

58 The principled position is to use the *ANJ v ANK* approach as a useful guide, keeping in mind that the steps were not intended to be used as "hard and fast rules that must immutably be applied even to cases of exceptional facts": *TNL v TNK* at [46], referring to *ANK v ANK* at [30]. The structured approach was aimed at according sufficient recognition to each party's contributions towards the marriage, and avoiding overvaluing or undervaluing indirect contributions. A common practice before *ANK v ANJ* had been to start by ascribing a ratio to the parties' direct contributions and then applying a percentage "uplift" to account for a party's indirect contributions. This, in the Court of Appeal's view, was unsatisfactory because using direct contributions as a starting point might undervalue the homemaker's indirect contributions, which would in turn be inconsistent with Parliament's objective of equalizing direct and indirect contributions: see *ANJ v ANK* at [19]. While the *ANJ v ANK* approach sought to give appropriate recognition to the homemaker's indirect contributions, it was also an insightful approach which was sensitive to the breadwinner. In the previous "uplift method", a breadwinning spouse (A) would have had his or her financial contributions recognised (*eg*, bringing in 90% of the assets), only to perceive that he or she is stripped of a share of this contribution when a share is awarded to the other spouse (B) for B's indirect contributions (*eg*, awarding B a final proportion of 40% resulting in A obtaining 60% of the pool), as if A had never made any indirect contribution to the welfare of the family at all. The *ANJ v ANK* approach adeptly acknowledges more expressly the indirect contributions of a breadwinning spouse in its second step.

59 Having made observations on the parties' contributions as relevant factors in s 112(2), I should point out that contributions are not the only factors that determine the proportions of division. The Court of Appeal in *NK v NL* at [20] and [29] had highlighted that:

> Section 112(2) of the Act enumerates a list of factors to be considered to assist the court in deciding whether to exercise its powers under s 112(1), and, if so, in what manner. These considerations are not exhaustive and are subject to the overriding impetus of what is just and equitable in all the circumstances of the case.
>
> … it is *paramount that courts do not focus merely on a direct and indirect contributions dichotomy* in arriving at a just and equitable division of matrimonial assets. The various factors enumerated by s 112(2) of the Act, which are no less important, must be duly assessed and considered as a whole. At the end of the day, no one factor should be determinative as the court's mandate is to come to a just and equitable division of the matrimonial assets having regard to all the circumstances of the case.
>
> [emphasis added]

60 The power to "divide" assets lies within the family law regime, and its exercise must be made in the context of family law principles, in contrast with using principles that guide other areas of law such as tort, contract or property law. As the power is driven by family law policies, the power should be exercised in a way that protects family obligations and enables parties to recast their future towards a way forward.

61 It is significant to note that a civil trial is markedly different from an AM proceeding. In civil proceedings, parties set out their cases in their pleadings and are bound by them. Facts which are pleaded to support a cause of action are proved in the court proceedings. Where there are gaps in evidence and a party asserting a fact is unable to prove it, he or she may not have discharged the requisite burden of proof. A successful litigant would be one who has proved his or her pleaded facts that support the pleaded case. A court may find against a litigant who fails to provide evidence to prove those facts. In contrast, in proceedings for the division of MAs, the court is presented with only a fraction of each party's "contribution" to the marriage, yet parties seek the court's determination on what is a just division based substantially on each party's

direct and indirect contributions in the *entire marriage*. Had a similar approach as that used in civil matters been taken, the Family Court presented with a 30-year marriage would have had to examine the entire contributions and conduct of each spouse over 30 years, possibly examining the daily records of each act done, each decision made, each word uttered every day and night over 30 years, for that is the only way to fully assess what contributions each had made to the marriage. This is an impossible exercise. Neither does such an exercise accord with the aspirations of the family justice system to enable the harmonious resolution of family disputes and for parties to continue family life after divorce in the most dignified manner possible. The court determines the division of assets by affidavit evidence unless leave is granted for the cross-examination of witnesses (see rr 42, 81(2) and 590 of the Family Justice Rules 2014 (S 813/2014)). This mode of proceedings is suitable because the "broad brush" approach is core to the exercise of discretion in s 112. It is appropriate because marriage is an intimate partnership between two spouses who had decided very solemnly to join their lives together.

62 Thus when applying the *ANJ v ANK* approach, the court must bear in mind that findings on the parties' contributions are necessarily impressionistic as it can only have sight of a portion of all that had occurred during the marriage, and will not be able to reach with mathematical specificity each party's contributions for the entire length of the marriage. This is especially true for long marriages, as the court's finding on the parties' "contribution" cannot fully reflect all that goes into building a life together nor will it be likely that records of transactions remain completely available. This observation should not be taken to suggest that parties should therefore dredge up their past in order to present to the court 30 years' worth of daily journal records on their married

lives. On the contrary, this would run counter to how family disputes ought to be resolved.

63 This is consistent with the Court of Appeal's remark in *Yeo Chong Lin v Tay Ang Choo Nancy and another appeal* [2011] 2 SLR 1157 at [81] that:

> At the end of the day, we wish to underscore the point that the broad brush approach, as stated in [66], is all about feel and the court's sense of justice.

64 Allowing parties to be calculative over every sum they had contributed throughout their long years of marriage does not sit well with the philosophy of marriage nor with divorce proceedings that endeavour to support parties towards an amicable resolution and conclusion to this phase of their family life. In *UNE v UNF* [2018] SGHCF 12, I observed (at [96]–[97]):

> 96 The present case demonstrates the difficulties in requiring parties to ascertain their *direct* contributions in their marriage and weigh them against each other. First, an inordinate amount of time and energy was focused on quantifying parties' direct contributions and translating them into a ratio, required for the first step in the structured approach. This exercise proved to be tedious because of the lack of evidence, which is not surprising as married parties typically do not keep financial records with a view to collecting evidence for a future divorce. Second, substantial resources were used in the process of ascertaining direct contributions – these include lengthy submissions and meticulous calculations of sums made by each party towards the various assets in the course of a marriage. Time and costs were expended on this tedious process only to reach the first step in the *ANJ* approach. Here, the hearing before me took place some 20 months after IJ was granted, as parties took out various interlocutory applications such as discovery and interrogatories against each other during that period. Remarkably, no fewer than 41 affidavits were filed. I pause here to point out that the exercise of ascertaining direct financial contributions is a step used not only in the structured approach, but had also been used in the years prior to *ANJ* in the now outdated "uplift' approach: see *ANJ* at [18].
>
> 97 The process in the next step of assigning ratios for *indirect* contributions allows parties to present their own alleged contributions in the best light and play down that of the other spouse or even allege

> misconduct by the other spouse. Room for amicable resolution is decreased when the process incentivises parties to focus on the failures of the other party in order to lower that party's indirect contributions to the marriage.

65 This is not to say that the *ANJ v ANK* approach has resulted in such conduct; it is only when the structured approach is applied in a rigid and calculative way, where its broad brush character is forgotten, that these difficulties arise.

66 Finally, I must stress that the division exercise in s 112 deals only with assets. The Court of Appeal has explained that when a marriage breaks up, the spouses' contributions, financial and non-financial, "are translated into economic assets in the distribution according to s 112(2) of the Act" (see [44] above, and *NK v NL* at [20]). Apart from such economic assets, there are immeasurable "gains" in a marriage that the court cannot divide. These "gains" are not insignificant, and include the relationship that parties had shared over the years, the life they built together, and most significantly, their children. The full experience of the responsibilities and joys of parenting, the closeness and love shared between parent and child, even financial support that adult children may subsequently give to the elderly parties later in life, are some of life's treasures this court cannot divide between spouses. One must not lose sight of the family law principles at play in s 112. The family justice system does not belittle the pain that often overshadows the joy experienced in the days before the marriage was broken; but it does exhort parties to reach deep to find a way forward.

Application of legal principles to present case: proportions of division

67 I now apply the *ANJ v ANK* approach in the broad brush manner I had explained above.

Direct contribution ratio

68 The Husband submitted that the court should take a broad brush approach and find an equal direct contribution ratio. He admitted that while the Wife's direct financial contributions outweigh his at face value, he submitted that her funds were in fact from the rental income and sale proceeds of jointly-owned properties, and should be equally attributed to both parties.

69 On the other hand, the Wife calculated the parties' direct contributions to each of the eight properties. At the hearing, she also clarified her position that the rental income and sale proceeds should be attributed to the parties in the ratio that the parties contributed to the property from which the rental income and sale proceeds were derived.

(1) Sian Tuan property

70 The property was purchased in 1993 for $1,010,000. The Wife submitted that the ratio of direct financial contributions to this property was 74.03:25.97 in her favour while the Husband submitted that it was 52.18:47.72 in the Wife's favour, which should be rounded off to 50:50.

71 The documentary evidence showed that the Husband contributed $311,391.16 in CPF moneys and $216,000 in cash, and the Wife contributed $647,859.13 in CPF moneys and $144,000 in cash. Both parties submitted that they were solely responsible for the 1% option money, but did not highlight evidence in this regard. The Husband submitted he was solely responsible for another 9% of the option moneys, while the Wife submitted that she had used the sale proceeds from an earlier owned matrimonial property at Figaro Street and so this should be attributed to her. The Wife also tendered receipts to prove that she was responsible for maintaining the property.

72 The evidence in respect of this property was limited, especially because it has been over 25 years since the property was purchased. Some of the purchase money may also be traced to the Figaro Street property that was purchased in 1984 and sold in 1991. The Wife submitted that she contributed far more to that property while the Husband submitted that their contributions should be treated as equal. As discussed above, I did not consider such evidence with a fine-tooth comb, tracing every dollar to circumstances in the 1980s; it suffices to say that both parties contributed to the previous Figaro Street property.

73 The Sian Tuan property was purchased in the early years of the marriage, shortly after the Husband ended his job at sea (for which he was well-remunerated). In the circumstances and taking the broad brush approach, I treated both parties' contributions to this property to be roughly equal.

(2) Bukit Batok property

74 The property was purchased in 1995 for $353,000. The Wife submitted that the ratio of direct financial contributions to this property was 69.87:30.13 in her favour and the Husband submitted it was 65:35 in the Wife's favour.

75 The documentary evidence shows that the Husband contributed $80,638.01 and the Wife contributed $194,792.70 in CPF moneys. The Husband asserted that he also contributed $18,360 in conservancy charges over the years and the Wife accepted this. The Wife made several assertions about how much she paid for this property, but did not tender any evidence in this regard.

76 The parties' submissions in respect of this property were not far apart. In the circumstances, I found, in broad strokes, that the Wife contributed more to this property in the ratio of 65:35 in her favour.

(3) Jalan Gumilang property

77 The property was purchased in 2006 for $960,000 using the Goodluck View sale proceeds, a mortgage loan, savings, and rental income. The Wife submitted that the ratio of direct financial contributions to this property was 87.73:12.37 in her favour while the Husband submitted it was 75:25 in the Wife's favour.

78 The Husband submitted that he had contributed $38,400 in cash to this property. He tendered evidence of a cheque for $38,400 dated 5 January 2007 to Comlaw LLC. The Wife's submission was that this consisted of the rental income from the Shanghai properties and should be attributed to both parties. The Husband admitted that the Wife bore all of the mortgage repayments. The Wife asserted she also paid for $70,000 in renovation costs but did not tender any evidence.

79 The sale proceeds from the Goodluck View collective sale allowed the parties to purchase three of the existing properties – the Jalan Gumilang property, the Upper Bukit Timah property, and the Jalan Besar property. As for the contributions to Goodluck View, the Husband contributed $117,413 in CPF and the Wife contributed $113,861.47 in CPF. The Wife also tendered evidence that she wrote cheques for the mortgage and maintenance fees. Neither party appeared to have submitted on the exact contribution ratio for this property. It suffices to say that the evidence shows that both parties contributed to the Goodluck View property.

80 The parties' submissions in respect of the Jalan Gumilang property were not too far apart. Keeping in mind the Husband's admission that he made no contributions to the mortgage on this property, in the circumstances, I found that the Wife contributed more, broadly in the ratio of 80:20 in her favour.

(4) Upper Bukit Timah property

81 The property was purchased in 2008 for $800,000 with the sale proceeds from Goodluck View and a mortgage loan. The Wife submitted that the ratio of direct financial contributions to this property was 82.7:17.3 in her favour and the Husband submitted it was 76:24 in the Wife's favour.

82 The Husband admitted that the Wife bore all of the mortgage repayments and outgoing costs on this property, although he asserted the rental income would have offset some of these costs. He was unable to point to any other financial contributions that could be attributed to him save for the rental income and sale proceeds.

83 In the circumstances, I found that the Wife contributed more to this property, broadly in the ratio of 80:20 in her favour.

(5) Jalan Besar property

84 The property was purchased in 2008 for $838,000 with the sale proceeds from Goodluck View and a mortgage loan. The Wife submitted that the ratio of direct financial contributions to this property was 88.51:11.49 in her favour and the Husband submitted it was 74:26 in her favour.

85 The Husband admitted that the Wife bore all of the mortgage repayments, although he asserted the rental income would have offset some of

these costs. Similarly, he was unable to point to any other financial contributions that could be attributed to him save for the rental income and sale proceeds.

86 In the circumstances, I found that the Wife contributed more to this property, broadly in the ratio of 80:20 in her favour.

(6) Shanghai properties units 10-09 and 16-10

87 The units were purchased in October 1996 for US$180,000. The Wife submitted that the ratio of direct financial contributions to these two units was 60:40 in her favour while the Husband submitted it should be 45:55 in his favour.

88 Rental from the Sian Tuan property and sale proceeds from an earlier property were applied towards the purchase price. The Husband submitted that he contributed $47,148.25 to this purchase and the rest of the initial cash contribution was made jointly. In fact, the documentary evidence only indicated that he contributed $23,574.12 as the cheques and invoices reflect the same transaction. The Wife submitted that she contributed a total of $136,604.12 in cash and $166,000 in sale proceeds from a previously owned Bukit Batok property.

89 These units were purchased in the relatively early years of the marriage and I found it more likely that both parties worked together to purchase them. Given the gaps in the evidence, the lack of clarity over the source of funds, and the time elapsed, I considered it fair in the circumstances to treat the parties' contributions to this property as equal.

(7) Shanghai property unit 12-04

90 The unit was purchased in November 2002. The Wife submitted that the ratio of direct financial contributions to this property was 70:30 in her favour while the Husband submitted it should be 50:50 between the parties.

91 Rental proceeds from the Sian Tuan property and sale proceeds from an earlier property were applied towards the purchase price. The Husband submitted that he contributed $10,000 to the purchase and the rest of the initial cash contribution came from the rental income of the other properties. The Wife submitted that she contributed $109,200 in cash towards this property.

92 I assessed, in broad strokes, that the Wife contributed more to this property in the ratio of 70:30.

Overall direct contribution ratio

93 The evidence both parties tendered was scattered and incomplete, as is only to be expected in such a long marriage. The difficulties were exacerbated in the present case by the parties' approach to investment and the size of the MA pool, as they used the proceeds of sale and rental income from properties – several of which have been sold – to fund existing properties. The court's discretion in s 112 is exercised in a broad brush manner and it would be impractical to delve into the minute details of properties sold long ago which were related to some of the eight properties held by the parties. The *ANJ v ANK* approach was never intended to apply in so calculative a manner. Tracing sources of funds through numerous properties bought and sold from the beginning of a 35-year marriage would grate against the broad brush approach. It is important to note that the exercise to determine the parties' direct contributions is only relevant to the first step in the *ANJ v ANK* approach.

94 The parties in the present case had amassed a sizeable pool of assets. I accepted that the Wife's direct contributions were more substantial relative to the Husband's as the evidence showed she was responsible for the injection of funds and it must had taken a substantial amount of effort to grow the investments. At the same time, I recognise that the parties' investment decisions generated a cyclical flow of income and I found that this generation of income should be attributed to both parties because both contributed to the seed money. The evidence showed that the Husband did make direct financial contributions, especially in the earlier years, even if he eventually left the management and decisions to the Wife.

95 The Court of Appeal held in *ANJ v ANK* (at [23]) that "[e]ven in respect of direct financial contributions of the parties, … [i]n a case where the documentary evidence falls short of establishing exactly who made what contribution and/or the exact amount of monetary contribution made by each party, the court must make a "rough and ready approximation" of the figures". The broad brush approach thus clearly applies to the determination of the parties' direct contributions.

96 Considering the evidence and circumstances, and using a broad brush approach, I found that the direct contribution ratio is 65:35 in favour of the Wife.

Indirect contribution ratio

97 The Husband submitted that the indirect contribution ratio was 50:50 between the parties while the Wife submitted that it was 90:10 in her favour.

98 The Husband submitted that the court should use the broad brush approach to assess indirect contributions. According to the Husband, from 1982 to 1992, he worked at sea and was away for long periods of time. However, for

every two months he was away he was permitted one month of leave, and spent it tending to the properties and caring for the children. From 1992 to 2009, he took a lower paying job to stay home with the family and also helped to maintain the properties. He alleged he paid for all the household expenses. In 2009, the Husband left the matrimonial home but he submitted he has remained supportive of the children and continued to pay for some household expenses.

99 The Wife submitted that the Husband was away at sea for much of the marriage. During that time, she was solely responsible for caring for the two children and managing their investments. When he returned, he worked and studied at the same time, which left him little time to contribute to the family. She continued shouldering the responsibility of managing the properties and caring for the children. He then left the matrimonial home in 2009 to pursue his own ventures in China, leaving the Wife and the children behind.

100 Neither party made extensive submissions on their indirect contribution ratio. Although the Wife characterised the marriage as one where the Husband was often away at sea, he was not away at sea for the entire marriage. He worked as a marine engineer during the first ten years of the marriage. According to the Husband, this was a sacrifice he made so that he could earn more to provide for the family. I note that the Husband was present in Singapore from 1992 to 2009, for the bulk of the children's growing-up years (they were born in 1988 and 1992). The parties also had the assistance of extended family and domestic helpers to care for the children. He was then away again in the last decade of the marriage, after the children turned 21 and 17 years old.

101 I accepted that the Husband contributed to household expenses during the marriage and continued to pay for some expenses even after he left the matrimonial home. At the same time, I also accepted that the Husband had used

fairly substantial sums of moneys for his alleged business ventures which alleged eventually failed.

102 Taking a broad brush approach in assessing the circumstances of this case, I found that the ratio of parties' indirect contributions to the marriage is 70:30 in favour of the Wife. The Wife bore the greater share of managing the home, raising the children, and did so for many years when the Husband was overseas. Still, the Husband cannot be said to be wholly absent in the marriage and did provide for the family.

Overall Division Proportions

103 Applying the structured approach, the average ratio would be 67.5:32.5 in favour of the Wife, prior to any adjustments.

104 At the hearing, the Wife's counsel emphasised that the Wife felt that she should be awarded more than half of the MA pool, more specifically 80%, because of her greater contributions in keeping the marriage together, toiling and building wealth for the family over the years. The Husband's counsel submitted that an equal division was appropriate, but also added that the Husband was willing to transfer an additional $259,000 to the Wife, and so he was in fact prepared to accept less than half of the pool.

105 As I have said above, marriage is an equal co-operative partnership of different efforts. Contributions are not the only factors that determine the proportions of division: see [59] above.

106 Having considered the facts and circumstances of this case, it was just and equitable to adjust the initial average ratio and divide the MAs in the proportion of 60:40 in favour of the Wife. The first steps of the *ANJ v ANK*

approach have provided guidance with an initial average ratio of 67.5:32.5. The final division proportion awards the Wife 10% more than an equal share given her very substantial efforts in nurturing the children and managing their financial resources for many years, being the ever-present parent, while the Husband was away for periods that were not insubstantial. The final award recognises the contributions of both parties and is also more consistent with the philosophy of marriage as an equal co-operative partnership of different efforts. I also had regard to broad trends in past cases with similar factual matrix. The Court of Appeal had considered the overall trends for long Single-Income marriages in reaching its decision in *TNL v TNK*; focusing strictly on contributions in long Dual-Income marriages would create an anomaly: see [53] above. Guided by *ANJ v ANK*, the division ratio of 60:40 is just and equitable on the facts of the present case, and is at the furthest range of what is probably acceptable as a proportion that inclines towards equality: see [52]. Thus the *ANJ v ANK* approach continues to assist the Court towards the final ratio that inclines towards equality on the specific facts of the case. The length of the parties' marriage is a significant factor in the present case. In long marriages, the remarks I have made in *UBM v UBN* on the parties' joint lives are particularly significant:

> 60 Divorcing couples were once in an intact, functioning relationship; they chose to marry each other, for better or for worse. The mutual emotional support each gave the other in the marriage cannot be measured in monetary terms. Who is to say that had one spouse not been present in the life of the other, the latter would have been as financially successful and thus able to contribute a greater share to the pool of matrimonial assets? Conversely, one cannot, on hindsight, tell with certainty whether the presence of the other spouse in one's life had any negative effect on one's career. Countless decisions, small and large, are made in the course of a marriage. Many significant forks in life's road occur during the course of a marriage. The broad brush approach is thus a key feature in the resolution of disputes over the division of matrimonial assets. The final ratio also ought to reflect the philosophy of marriage as an equal partnership of different efforts. Matrimonial disputes are best managed, and families

> better supported, by a sensible, broad-brush process which does not incentivise calculative behaviour. Parties need to be bigger, kinder and wiser after a divorce; they need to look ahead and recast their future to focus on healing themselves and parenting their children.

In *UBM v UBM*, the assets were divided in the ratio of 60:40 in favour of the Husband.

107 In *UKA v UKB* [2018] SGHCF 7, I divided matrimonial assets equally between the parties in a 28-year marriage. I explained my decision involving this long Dual-Income marriage (at [82]):

> 82 This marriage was an equal partnership of different efforts and should be recognised as such in the division of assets. A just and equitable division of the matrimonial assets is for the parties to share equally in the wealth of this marriage. In reaching this decision, I am not painting a picture of a long and happy marriage where parties felt they were equals as marriage partners. Unfortunately, the evidence showed that the marital relationship had been strained and difficult for more than a decade before the divorce. I have found the Wife to be domineering and controlling. I doubt that the Husband felt as if he was an equal marriage partner, as the Wife controlled the finances so tightly that he struggled to find funds for himself. The Wife, on the other hand, has enjoyed the "high life". But I have found that each played their roles, even if it was amidst quarrels and strained relationships. The parties married in their twenties, when neither had wealth nor high education. They journeyed together and at the end of their marriage, in their fifties, they had amassed more than $30 million in assets. Would they have acquired more or less assets had things been different? Suppose the Husband had limited the Wife from living the high life and spending so much money on the luxury goods? Suppose the Husband had spent less time on the Company and more time with the Wife? Suppose the parties had shared more equally the control over the Company's finances? Who knows how things might have turned out? It is impossible to tell where each party would be today if some things had been different. My point is that parties should not now focus on the alleged misconduct of the other party, suggesting that he or she would have been in a better position had the other behaved better. Life is more complex than that.

108 The Wife wrote to the Court after I had delivered my decision to clarify, or rather, to seek a justification for reducing her share by 7.5%, from the average

ratio of 67.5% to the final ratio of 60%. This query appears to arise from the misperception that the division exercise is entirely premised on the calculations of the parties' direct and indirect contributions, as well as from insufficient regard for the broad brush approach in *ANJ v ANK*. I had explained at [59] that the Court of Appeal has cautioned that it is paramount that courts do not focus merely on a direct and indirect contributions dichotomy. Indeed s 112(2) requires the court to consider all the circumstances of the case, including the eight factors enumerated, the last of which refers to even more factors contained in s 114(1). I have explained above why the division is consistent with the philosophy of marriage as an equal co-operative partnership of different efforts and with the broad trends in past cases involving long Dual-Income marriages (at [106]–[107]).

109 I have also explained above at [66] that apart from such economic assets, there are immeasurable "gains" in a marriage that the court cannot divide. Here, the parties raised two sons together. I understand that the sons remain close to the Wife and are a pillar of support for her during this trying time. The Wife may feel that she has toiled much and bore the heavier burden in caring for the children while the Husband was often overseas – I think that for her a large part of her immeasurable gains are the closeness and loving support of the two adult sons.

Conclusion

110 Given the total size of the MA pool at $14,894,190, the Wife is entitled to 60% or $8,936,514 of the assets and the Husband is entitled to $5,957,676. I left the parties to work out the consequential orders between themselves. They shall have liberty to apply.

111 I urged parties to agree on costs, failing which they were at liberty to write in to the court for directions.

Debbie Ong
Judge

Chettiar Kamalarajan Malaiyandi and Cyril Ting (Rajan Chettiar LLC) for the plaintiff;
Anamah Tan and Rebecca Vathanasin (Ann Tan & Associates) for the defendant.
