

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2019] SGHCF 23

Divorce (Transferred) No 3368 of 2017 and
High Court (Family Division) Summons No 128 of 2019

Between

UZK

... Plaintiff

And

UZL

... Defendant

JUDGMENT

[Family Law] — [Matrimonial assets] — [Division]

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UZK

v

UZL

[2019] SGHCF 23

High Court (Family Division) — Divorce (Transferred) No 3368 of 2017 and
High Court (Family Division) Summons No 128 of 2019
Tan Puay Boon JC
12 April, 8 August 2019

12 November 2019

Judgment reserved.

Tan Puay Boon JC:

Introduction

1 The plaintiff (“the Wife”) was born in 1977, and the defendant (“the Husband”) was born in 1976 (collectively “the parties”). They were married in 2000 in the United Kingdom (“UK”), and filed for divorce in Singapore on 21 July 2017. Interim judgment (“IJ”) was granted on 8 November 2018 following contested proceedings, ending the marriage after 18 years.

2 The Wife is a Singapore Citizen and the Husband is a UK National who is also a Singapore Permanent Resident. There are no children to the marriage, and neither party seeks maintenance. Before turning to the sole issue for determination, *ie*, the division of matrimonial assets, I set out the background facts and the brief reasons for my decision in High Court (Family Division)

Summons No 128 of 2019 (“HCF/SUM 128/2019”), which was an application filed by the Husband on 15 May 2019 to strike out the IJ on the ground that it is not valid in the UK, or for leave to be granted for him to appeal against the IJ out of time.

3 The Husband acted in person in the ancillary matters hearing (“AM hearing”) and HCF/SUM 128/2019. He had included in his written submissions evidence that was not covered by the affidavits he filed. I was constrained to disregard such evidence unless it was otherwise admissible.

Background Facts

4 The Wife and Husband are respectively 42 and 43 years old this year. While the parties worked during the marriage, they ceased employment around 2017.¹ The Husband has informed the court through submissions he filed for the AM hearing that he has since been employed by a financial institution in Singapore in March 2019.²

5 The parties met at university in 1996 and registered their marriage in the UK in 2000. From 2000 to 2005, they lived rent-free in London in a flat owned by the Wife’s father.³ The Wife was then employed by a financial institution, and she relocated to Hong Kong in 2005.⁴ The Husband also moved to Hong

¹ Wife’s Affidavit of Assets and Means dated 13 December 2018 (“Wife’s AAM”) at p 5; Husband’s Affidavit of Assets and Means dated 20 December 2018 (“Husband’s AAM”) at para 5.

² Husband’s written submissions dated 29 March 2019 (“HWS”) at para 12(a).

³ Wife’s AAM at para 13(a).

⁴ Wife’s AAM at para 12(b).

Kong in 2005.⁵ In July 2014, the Husband was assaulted in Hong Kong and suffered a traumatic brain injury and was hospitalised for approximately three weeks.⁶ The parties relocated to Singapore in November 2014.⁷ The Wife continued to work for the Singapore branch of the same financial institution that had employed her in Hong Kong. The Husband was employed as a contract employee by another financial institution.⁸ Their marriage began to break down in 2016, and the Wife moved out of the premises she rented with the Husband in November 2016.⁹

6 The parties subsequently entered into a deed of arrangement dated 18 January 2017 (“the Deed”).¹⁰ The Deed provided, *inter alia*, that the Wife could commence divorce proceedings in Singapore after 1 June 2017 if she was still of the view that the marriage had broken down irretrievably, and that such proceedings were to be uncontested. The Deed also set out the appropriate division of assets.

7 The Wife commenced divorce proceedings on 21 July 2017 on the ground that the Husband had behaved in such a way that she could not reasonably be expected to live with him.¹¹ The Husband contested the divorce, and the IJ was granted on 8 November 2018 after trial.

⁵ Husband’s AAM at para 22.

⁶ Husband’s Ancillary Matters Affidavit dated 8 April 2019 (“Husband’s AM Affidavit”) at paras 10 to 13.

⁷ Husband’s AAM at para 22(xvii); Wife’s AAM at para 12(h).

⁸ Wife’s AAM at para 12(h); Husband’s AM Affidavit at para 171.

⁹ Statement of Particulars dated 21 July 2017 (“SOP”) at para 1(e).

¹⁰ SOP at pp 4–8.

¹¹ SOP para 1(f).

The Husband's application in HCF/SUM 128/2019

8 Following the AM hearing on 12 April 2019, the Husband applied in HCF/SUM 128/2019 to strike out the IJ on the ground that the IJ was not valid in the UK, or for leave to be granted for him to appeal against the IJ out of time. I dismissed the summons on 8 August 2019, and ordered the Husband to pay costs of S\$3,000 to the Wife, with the sum deducted from his share of the proceeds of sale of the matrimonial properties.

9 In relation to the application to strike out the IJ, the Wife submitted that the doctrine of *res judicata* applied. The Husband's earlier applications in Family Court Summons No 2931 of 2017 to stay the divorce proceedings on grounds of *forum non conveniens* and Family Court Summons No 4180 of 2018 on various grounds had been dismissed.¹² The Wife also cited UK legislation to argue that the Husband's assertion that the IJ would not be recognised in the UK was misconstrued.¹³

10 I was satisfied that the Singapore courts have jurisdiction to hear the present divorce proceedings pursuant to s 93(1)(a) read with s 3(5) of the Women's Charter (Cap 353, 2009 Rev Ed) ("the WC"). The Wife, being a Singapore Citizen, was presumed to be domiciled in Singapore at the time of the commencement of the proceedings, and the Husband did not raise any evidence to rebut this presumption. There was therefore no basis for me to strike out the IJ, after the Family Court found sufficient grounds for granting a divorce under the WC. This was regardless of whether the IJ would be recognised or

¹² Wife's written submissions in HCF/SUM 128/2019 dated 2 July 2019 ("WWS in HCF/SUM 128/2019") at paras 14–16.

¹³ WWS in HCF/SUM 128/2019 at paras 18–19.

enforced in the UK, on which I was not in a position to make any finding absent expert evidence on the relevant foreign law to be applied.

11 Concerning the application for an extension of time to appeal against the IJ, in deciding whether to grant leave the court is to consider: (a) the length of delay; (b) the reasons for delay; (c) the chances of the appeal succeeding if time for appealing was extended; and (d) the prejudice caused to the would-be respondent if an extension of time was in fact granted: *Lee Hsien Loong v Singapore Democratic Party and others and another suit* [2008] 1 SLR(R) 757 at [18] and [28].

12 The IJ was granted on 8 November 2018 and HCF/SUM 128/2019 was filed after a lapse of 6 months on 15 May 2019. This was not a short duration by any measure. It appeared that the reason for the delay was the impecuniosity of the Husband. However, the Husband took part in the hearing of the AM matters on 12 April 2019, which was completed on that day, but decided to file the application for extension of time to appeal one month later, while awaiting the release of the decision. I did not think that the Husband should be allowed to approbate and reprobate the matter. Further, it followed from my finding that the Singapore courts have jurisdiction to grant the divorce that an appeal on similar grounds would be unlikely to succeed. Finally, the Wife, like any litigant, was also entitled to have the matter resolved expeditiously. I therefore dismissed this application.

My decision on the division of assets

13 While the parties agreed on the identity of the immovable properties, they disagreed on their values and also the values of the other matrimonial assets. I first address the preliminary matter of whether the clauses in the Deed

providing for division are conclusive and the approach to be applied in the division of the matrimonial assets.

Preliminary issues

The legal effect of the Deed

14 The Wife had filed Family Court Summons No 890 of 2018 (“FC/SUM 890/2018”) on 12 March 2018 seeking a determination of the various preliminary issues, including whether the Deed is valid and binding on parties.

15 The Family Court held that the Deed is valid and binding between parties. However, it also held that it was not binding on the court and was just one of the factors that the court will consider in the contested divorce proceedings and the AM hearing should a divorce be granted.¹⁴

16 Before me, the Wife submitted that full weight should be accorded to the Deed as it provides for a just and equitable division of matrimonial assets.¹⁵ The Husband contended that the Deed did not apply, and repeated his earlier allegation in FC/SUM 890/2018 that he entered into the Deed under duress.¹⁶

17 I do not accept the Husband’s submission that the Deed is invalid. As ordered in FC/SUM 890/2018, which has not been appealed against, the Deed is valid and binding between the parties.

¹⁴ Notes of Evidence of the Family Court dated 23 May 2018 for HCF/SUM 890/2018 at p 3.

¹⁵ Wife’s written submissions dated 21 March 2019 (“WWS”) at paras 41–42.

¹⁶ Notes of Evidence of the Ancillary Matters hearing on 12 April 2019 (“NE”) at p 3; HWS at p 1.

18 Where parties properly and fairly come to a formal separation agreement with the benefit of legal advice when the marriage has failed and when parties have gone their separate ways or are proposing to do so, such an agreement will generally carry significant weight. This is especially if the agreement is entered into after divorce proceedings have commenced: *Surindar Singh s/o Jaswant Singh v Sita Jaswant Kaur* [2014] 3 SLR 1284 at [52] and [54].

19 In *UKA v UKB* [2018] 4 SLR 779, the wife relied on a post-nuptial document to support her claim to exclude certain assets from the pool. The document benefited the wife alone, and she controlled the finances of the family company at the time and threatened to close the company if the husband did not comply with her demands. The High Court gave this document minimal weight as the evidence showed that the wife exploited her dominant position over the husband to secure an unreasonable advantage: at [26]–[32].

20 The Deed does not appear on its face to be manifestly disadvantageous to either party.¹⁷ It provides that the net value of the immovable properties (namely, the Hong Kong Property, the London York Way Property and the London Brentford Property) is to be divided equally.¹⁸ The Husband also had no evidence that showed that he was pressured to enter into the Deed. Indeed, the Wife’s evidence in FC/SUM 890/2018 showed that he played an active role in negotiating the Deed’s terms.¹⁹ But it is also important that the Deed was not a “separation agreement” as it was signed when the Husband still hoped that the

¹⁷ WWS at paras 41.

¹⁸ SOP at p 6, cl 4.

¹⁹ Wife’s 1st affidavit in FC/SUM 890/2018 dated 8 March 2018 (“Wife’s 1st Affidavit in FC/SUM 890/2018”) at para 5 and pp 19–20.

parties would remain together.²⁰ He also did not obtain legal advice when drafting and signing the Deed. I find that his conversations with the Wife leading to the signing of the Deed²¹ as well as his subsequent breaches of the Deed in contesting the divorce²² and in objecting to the proposed division indicate that he entered into the Deed motivated mainly by the prospect of saving the marriage, without knowledge of the legal consequences of doing so and without full consideration of his interests.

21 In these circumstances, it would not be fair to give conclusive weight to the Deed. I will thus not adopt wholesale the division of matrimonial assets set out in the Deed. Nonetheless, I will give the Deed due weight in my decision on the division of the assets, as part of the exercise of my discretion under s 112(1) read with s 112(2)(e) of the WC.

The appropriate methodology for division

22 The court may apply the global assessment methodology or the classification methodology in dividing the assets. The former methodology consists of four phases: the court identifies and pools all the matrimonial assets; assesses the net value of the pool of assets; determines a just and equitable division of the assets; and finally decides on the most convenient way to achieve these proportions of division: *NK v NL* [2007] 3 SLR(R) 743 (“*NK*”) at [31]. As for the classification methodology, the court divides the matrimonial assets into various classes and then separately considers the parties’ contributions in relation to each class of assets: *NK* at [32].

²⁰ SOP at p 5, cl 5 of Preamble.

²¹ Wife’s 1st Affidavit in FC/SUM 890/2018 at pp 18–22.

²² SOP at p 5, cl 3.

23 Both approaches are consistent with the legislative framework under s 112 of the WC, and lead to the same result in most cases: *NK* at [33] and [35]. However, the classification approach is generally appropriate where there are multiple classes of assets which “lend themselves to classification” and where parties have made different contributions in relation to each class: *AYQ v AYR and another matter* [2013] 1 SLR 476 (“*AYQ*”) at [19]; *NK* at [35]. The classification methodology may also be appropriate where certain assets are “not wholly the gains of the co-operative partnership of efforts that the marriage represents”: *TNC v TND* [2016] 3 SLR 1172 at [40].

24 The Wife proposed using the classification methodology to identify the assets and to separate the matrimonial assets into two classes: (a) the immovable properties (identified above at [20] above), and (b) the assets in the parties’ sole names. The Husband agreed with this approach.²³

25 The parties’ respective contributions clearly differed in relation to the two classes of assets. The assets in the Wife’s name were mainly pension accounts and bank accounts and the Husband only identified his Central Provident Fund (“CPF”) account to be in his name. There was no evidence that he contributed to the assets in the Wife’s sole name, and the Wife would not have contributed to his CPF account. Conversely, the immovable properties were mainly financed using the proceeds of the sale of a third London Property (“the Putney Hill Property”) which they had jointly contributed to financially to acquire (discussed further at [53(a)] below). I therefore agree that it is appropriate to adopt the classification methodology.

²³ NE at p 6.

Identification and valuation of the matrimonial assets

26 The starting position for the date of the *identification* of matrimonial assets is the date interim judgment is granted (“the IJ date”), *ie*, 8 November 2018: *ARY v ARX and another appeal* [2016] 2 SLR 686 at [31]. The starting point for the date of the *valuation* of the matrimonial assets is the date of the AM hearing (“the AM date”), *ie*, 12 April 2019, unless departure from this date is warranted by the facts: *TND v TNC and another appeal* [2017] SGCA 34 at [19]. I adopt the IJ and AM dates as the operative dates for identifying and valuing the matrimonial assets respectively as no reasons to do otherwise arise.

The immovable properties

27 Starting with the immovable properties, the parties agreed on the identity of these assets in Hong Kong and London and the exchange rates to be applied to the respective valuations: S\$1 to £0.565 and S\$1 to HK\$5.795.²⁴ I calculate their net values by deducting the values of the outstanding mortgage loans from the gross valuations.

(1) Hong Kong Property

28 The Hong Kong property is in the Wife’s sole name.²⁵ She submitted that the gross valuation was HK\$14.5m (S\$2,502,157.03) based on a valuation report prepared on 14 March 2019.²⁶ The Husband submitted that the gross valuation was HK\$16.5m based on a price listing on a property sales website.²⁷

²⁴ NE at p 7; Exhibit P2 at p 1.

²⁵ NE at p 1.

²⁶ WWS at Annex C, pp 61–87.

²⁷ Husband’s AAM at p 27; NE at p 8.

29 I adopt the Wife's gross valuation as it is supported by a formal valuation report and was the valuation closest to the AM date. I also adopt her valuation of the outstanding mortgage loan of HK\$4,402,310.52 (S\$759,673.95) as at 23 October 2018,²⁸ as it was the only figure supported by documentation. The net value of the asset is therefore S\$1,742,483.08 (being S\$2,502,157.03 – S\$759,673.95).

(2) London York Way Property

30 This asset is held in the parties' joint names. The Wife indicated in a letter to the court dated 3 May 2019 (copied to the Husband) ("Wife's 3 May 2019 Letter") that she accepted the Husband's gross valuation of S\$1,407,000.00.²⁹ I adopt her valuation of the outstanding mortgage loan of £270,548.79 (S\$478,847.42) as at 1 December 2018³⁰ as it was the only figure supported by documentation. The net value of the asset is therefore S\$928,152.58 (being S\$1,407,000.00 – S\$478,847.42).

(3) London Brentford Property

31 This asset is held in the parties' joint names. The Wife indicated in her 3 May 2019 Letter that she accepted the Husband's gross valuation of S\$778,761.00. I adopt her valuation of the outstanding mortgage loan of £232,222.10 (S\$411,012.57) as at 1 November 2018³¹ as it was the only figure supported by documentation. The net value of the asset is therefore S\$367,748.43 (being S\$778,761.00 – S\$411,012.57).

²⁸ NE at p 8; Wife's AAM at p 79.

²⁹ Wife's 3 May 2019 Letter at para 3.

³⁰ NE at p 8; Wife's AAM at p 97.

³¹ NE at p 8; Wife's AAM at p 120.

(4) Other matrimonial liabilities relating to the immovable properties

32 The Wife submitted that her father provided the parties a loan of S\$285,000.00 for the Hong Kong Property's down payment and that this sum should be repaid to him.³² The Husband submitted orally that there was no documentation supporting this loan.³³ However, the contemporaneous email correspondence confirms that the S\$285,000.00 transferred by the Wife's father was a loan which the parties intended to repay through later refinancing.³⁴ Clause 4.3 of the Deed also reflects that the parties acknowledged that the Wife's parents loaned them S\$250,000.00 to purchase the Hong Kong Property, and that this loan should be repaid before the net value of the Property is shared equally between the parties.³⁵ The Wife deposed that the parties were under the impression when they entered into the Deed that the loan was for S\$250,000.00 and not S\$285,000.00, but relied on the latter figure in view of the email correspondence that she subsequently located.³⁶ In the light of the contemporaneous email evidence, I consider this loan a matrimonial liability and deduct the sum of S\$285,000.00 from the pool.

³² WWS at paras 57(a), 58(a).

³³ NE at p 4.

³⁴ Wife's AAM at pp 238–240.

³⁵ SOP at p 6.

³⁶ Wife's AAM at para 12(c).

The assets in the parties' sole names

(1) The assets in the Wife's sole name

33 The Wife listed her assets and their values in the Joint Summary of Relevant Information dated 21 March 2019 ("JS") as follows:³⁷

S/No	Asset	Wife's Valuation (S\$)
1	DBS Bank Unit Trusts	56,672.00
2	JP Morgan Hong Kong Funds	17,767.15
3	HSBC Mandatory Provident Fund (Hong Kong)	39,082.39
4	JP Morgan Pension (UK)	128,532.55
5	POSB Account -8778	249.22
6	POSB Account -2572	54.80
7	HSBC Account -9496	5,610.89
8	HSBC Account -9221	433.82
9	HSBC Account -0833	34.11
10	HSBC Account -0542	10,052.44
11	HSBC Account -1250	1,235.38
12	CPF Account	97,248.90
13	Watch	8,000.00
14	Singapore Island Country Club ("SICC") Membership	200,000.00

³⁷ JS at pp 4–5; WWS at para 10; Exhibit P2, Table 3.

	Sub-Total	564,973.65
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The Husband did not directly dispute these figures.³⁸

34 I add the Wife’s assets listed above at S/Nos 1–13 into the matrimonial pool, and accept her valuations of the assets. However, the SICC Membership (at S/No 14) should not be added to the pool. The Wife submitted that the SICC Membership was acquired before the marriage, as provided for in cl 5 of the Deed.³⁹ Section 112(10)(a) of the WC states that a “matrimonial asset” includes:

(a) **any asset acquired before the marriage by one party** or both parties to the marriage —

(i) *ordinarily used or enjoyed by both parties* or one or more of their children while the parties are residing together *for shelter or transportation or for household, education, recreational, social or aesthetic purposes*; or

(ii) which has been substantially improved during the marriage by the other party or by both parties to the marriage; ...

[emphasis added]

35 While the Husband submitted that he played golf at SICC using the spousal privileges extended under the Wife’s SICC Membership, he did not submit that the Wife also ordinarily enjoyed or used the SICC Membership. Neither did he suggest that he had substantially improved the asset in any capacity. Even if he did pay for membership fees for six years as he claimed,⁴⁰ these payments were for the use of SICC facilities, and did not amount to an

³⁸ NE at p 8.

³⁹ SOP at p 6; WWS at para 46.

⁴⁰ NE at p 6.

improvement of the asset. As neither limb under s 112(10)(a) was made out on the evidence, the SICC Membership is not a matrimonial asset.

36 The value of the matrimonial assets in the Wife's sole name is therefore S\$364,973.65 (being S\$564,973.65 – S\$200,000.00).

(2) The assets in the Husband's sole name

37 In the JS, the Husband claimed that the assets in his name included his expenses on the matrimonial home; the discounts he obtained from negotiations on their property investments; tax benefits he assigned to the Wife; rental expenses that he incurred in Singapore and loss of income from not accepting a job in Hong Kong because the Wife "tricked" him into moving to Singapore; medical expenses due to cancellation of medical insurance by the Wife; the value of household items left in Singapore; a loan from a friend for his living expenses; and rental he spent in Hong Kong after being locked out from parties' property there.⁴¹ I agree with the Wife that these and similar items were not assets *per se*.⁴² The Husband also did not support his valuations of these "assets" with any evidence. However, I will consider the Husband's claims and allegations in this regard in my assessment of his indirect contributions to the marriage where they are relevant.

38 I rely also on the Husband's affidavit of assets and means to consider what assets he held in his name:⁴³

⁴¹ NE at p 2; JS at pp 6–8.

⁴² NE at p 6.

⁴³ Husband's AAM at paras 8(a), 12, 13, 15 and p 34.

S/No	Asset	Husband's Valuation (S\$)
1	Shareholdings	0.00
2	Citibank Singapore Account -5003	0.00
3	HSBC Account -6634	7,000.00
4	CPF Account	65,991.33
5	Violoncello	20,000.00
6	Watch	4,200.00

39 Apart from the balance in his CPF Account, the Husband provided no documentary evidence that substantiated his valuations. The Wife submitted that the Husband's only asset was his CPF Account and appeared to accept that he had no moneys in his bank accounts.⁴⁴ Given the state of the evidence, I find that the Husband's only asset was his CPF Account with a balance of S\$65,991.33.

(3) Allegations of the Wife's non-disclosure of relevant assets and wrongful dissipation

40 The Husband raised the possibility that the Wife might have other undeclared assets and highlighted bank transfers of £9,252.86, £1,371.70 and £1,000.00 that were made in September and October 2018 that she did not explain.⁴⁵ I understood the latter to be an allegation of wrongful dissipation.

⁴⁴ NE at pp 2, 17; Exhibit P2, Table 5.

⁴⁵ NE at p 8.

41 I disagree that the mere fact that the Wife made larger bank transfers justifies a finding that she wrongfully dissipated assets. I am also satisfied that she made sufficient disclosure of her assets. If anything, it is the Husband who did not appear to disclose all his assets. For instance, he did not produce evidence of the present balances in his bank accounts, even though he would presumably have access to his bank statements. However, the Wife did not press this point⁴⁶ and I will not address this aspect of the case further.

42 The Husband also alleged that the Wife did not account for the rental income on the immovable properties and “has been hiding ... money”.⁴⁷ I disagree. I am satisfied with the Wife’s account that the rental income is sufficiently accounted for and has been put towards the mortgage payments and the management fees, property taxes and other related expenses.⁴⁸

(4) Moneys allegedly owed by the Husband to the Wife

43 I address the sums that the Wife submitted that the Husband owed her, which she listed in Table 3 at para 11 of her written submissions.⁴⁹

44 The loans she made to the Husband prior to the IJ date amounting to S\$37,600.61 (Table 3 at S/Nos (i)–(iii)) will not be considered in the division of assets. The division of assets under s 112 of the WC is not an appropriate occasion to resolve what is effectively a civil claim for inter-spousal debts: *AZZ v BAA* [2016] SGHC 44 at [168]; *UYP v UYQ* [2019] SGHCF 16 (“*UYP*”) at

⁴⁶ NE at p 12.

⁴⁷ NE at pp 9–10.

⁴⁸ WWS at para 45.

⁴⁹ See also Wife’s AAM at para 1.

[32] and [33]. As the source of the loans acquired during the marriage would have been matrimonial assets, an inter-spousal loan would not result in a change to the overall pool as the loan moneys would be transferred by one party to another: *UYP* at [32]. I will, however, take into account the Wife's financial support of the Husband in assessing her indirect contributions to the marriage.

45 The Wife also highlighted that the Husband owes her sums relating to the immovable properties (Table 3 at S/Nos (iv)–(ix)):

(a) The Hong Kong Property: the property tax refund from the Hong Kong Inland Revenue Department for 2014–2015 and the property tax payments from 2015–2018.

(b) The London York Way Property: her share of the mortgage loan and service charge payments for 2017; the rental shortfall for the mortgage loan payment for March 2018; and mortgage loan payments from October 2018 to February 2019.

(c) The London Brentford Property: her share of the mortgage loan and service charge payments for 2017; and the rental income payment and half of the mortgage loan instalment for August 2018.

46 For the London Properties, the Wife explained that the mortgage loan payments were meant to be covered by the rental income. However, the Husband began taking the rental incomes without contributing to the mortgage loan payments.⁵⁰ I will not add these sums to the matrimonial pool but will consider them in the context of the Wife's contributions to the marriage.

⁵⁰ Wife's AAM at para 3(c).

47 Finally, the Husband has not paid the Wife the costs ordered in the present proceedings. I find that she is entitled to these unpaid costs and deal with this at [73] below.

(5) Other liabilities

48 With regard to the liabilities listed by the Husband, which are the balance owing for the cost of re-homing the Wife's cat and the rental in Hong Kong provided by the Wife's former colleagues, and the credit card debts of the Wife,⁵¹ the evidence on these items is insufficient for a proper finding to be made. Given the small values of these liabilities relative to the size of the pool of matrimonial assets, I will not deduct them from the matrimonial pool.

The appropriate ratio of division

49 Both parties made submissions based on the structured approach in *ANJ v ANK* [2015] 4 SLR 1043 ("*ANJ*"). As summarised by the Court of Appeal in *BPC v BPB and another appeal* [2019] 1 SLR 608 at [70], this approach involves three broad steps:

- (a) first, ascribe a ratio that represents each party's direct contributions relative to those of the other party, having regard to the amount of financial contribution each party has made towards the acquisition or improvement of the matrimonial assets;
- (b) second, ascribe a second ratio to represent each party's indirect contribution to the well-being of the family relative to that of the other throughout the marriage; and

⁵¹ JS at p 9.

(c) third, using each party's respective direct and indirect percentage contributions, derive each party's average percentage contribution to the family that would form the basis to divide the matrimonial assets.

50 While the *ANJ* approach applies to the general run of cases where the parties' direct and indirect contributions are the only two factors engaged under s 112 of the WC, the court may make adjustments as it deems necessary to account for the other factors under s 112: see *ANJ* at [28]. In the present case, I consider the Deed relevant to the issue of division (see s 112(2)(e) of the WC) and accordingly take it into account at the third stage of the *ANJ* approach to determine if the average ratio should be adjusted (see below at [64]).

Step 1: Direct financial contributions

(1) The immovable properties

51 The Wife was prepared to accept that the parties made equal contributions to the immovable properties even though she submitted that she bore the burden of any shortfall between the rental received and the mortgage loan payments.⁵² The Husband agreed that equal direct contributions were made.⁵³

52 Since the parties agreed on a 50:50 ratio of direct contributions, I will adopt this ratio, but observe that the evidence showed that the Wife made more direct contributions to the Hong Kong Property:

⁵² NE at p 10; WWS at para 45.

⁵³ NE at p 11; Exhibit P1, Table 2.

(a) The Property cost HK\$6.649m, and contemporaneous email correspondence indicates that the down payment of HK\$2.5m was financed by: (a) a HK\$1m contribution from the Wife using funds she previously received from her father as a gift; and (b) a HK\$1.5m loan from the Wife's father (as converted from S\$285,000.00).⁵⁴ While the latter is a matrimonial liability to be deducted from the pool (see above at [32]), I consider the Wife's HK\$1m contribution to be a direct financial contribution by her.

(b) I do not accept the Husband's claim (which is denied by the Wife) that the Property was financed by his mother and cash gifts given by guests at the parties' wedding as no supporting evidence was provided.⁵⁵

(c) As the Husband could not find steady employment in the period immediately after the parties relocated to Hong Kong in 2005, the Wife footed a larger portion of the mortgage payments from 2007 to 2008.⁵⁶

53 The London York Way and Brentford Properties were mainly financed with the proceeds of the Putney Hill Property that the parties purchased in 2011 and sold in 2013.⁵⁷ My findings regarding these two properties are as follows:

(a) The parties agreed that the Putney Hill Property was financed by re-mortgaging the Hong Kong Property. The Husband disagreed that the

⁵⁴ Wife's AAM at para 12(c) and pp 238–240.

⁵⁵ Husband's AAM at paras 7(c), 21(b); Wife's 2nd Affidavit of Assets and Means dated 1 February 2019 ("Wife's AM Affidavit") at para 9.

⁵⁶ Husband's AAM at paras 22(ii)–22(vii); Wife's AM Affidavit at para 9.

⁵⁷ Wife's AAM at para 12(i).

Wife also contributed to the down payment using the surrender value of an NTUC Income life insurance policy.⁵⁸ The evidence showed that she surrendered the life insurance policy on 17 June 2011, obtained a surrender value of S\$21,292.38 and forwent the assured sum of S\$75,000.00.⁵⁹ Given that the Putney Hill Property was purchased in the same year and that the parties would have needed funds to finance the purchase, I accept on balance the Wife's position that at least a portion of the surrender value was put towards the down payment.

(b) The London York Way Property was financed using the profits from the sale of the Putney Hill Property.

(c) The Wife's position was that the London Brentford Property was financed using her share of the profits from the sale of the Putney Hill Property and her own funds. She also covered for the Husband's failure to contribute his share.⁶⁰ The Husband did not directly dispute this apart from stating that the deposit was paid using the parties' "matrimonial savings".⁶¹ On balance, I find that the Wife contributed more than the Husband to the financing of the London Brentford Property.

(d) I accept the Wife's submission that she alone footed the mortgage loan payments in 2017 and 2018, and covered the shortfalls

⁵⁸ Wife's AAM at para 12(i); Husband's AM Affidavit at para 142.

⁵⁹ Wife's AAM at pp 242–243.

⁶⁰ Wife's AAM at para 12(l).

⁶¹ Husband's AM Affidavit at para 144.

when the full rental income was paid only to the Husband.⁶² The Husband did not dispute this.

54 However, notwithstanding these observations, as stated at [52] above, I adopt the ratio of direct financial contributions as agreed between the parties.

(2) The assets in the parties' sole names

55 As stated above at [25], I am satisfied that the nature of the assets in the parties' sole names is such that the parties would have directly contributed only to the assets in their own name, and not at all to the assets in the other spouse's name. The approximate ratio of direct contributions for this class of assets is as follows:

	Wife's Contribution	Husband's Contribution	Reference
Assets in Wife's name	S\$364,973.65	S\$0.00	[36]
Assets in Husband's name	S\$0.00	S\$65,991.33	[39]
Total value of assets in parties' sole names	S\$430,964.98		
Ratio of direct contributions	85%	15%	

Step 2: Indirect contributions

56 The parties' indirect contributions across the marriage are to be factored into each class of assets and their weightage remains constant in relation to each class: *AYQ* at [22] and [23].

⁶² WWS at para 11; Wife's AAM at para 3(d).

57 The Wife submitted that the ratio of indirect contributions was 70:30 between the Wife and the Husband. The Husband submitted a ratio of 30:70 instead.⁶³

58 On the evidence, I find that while this was a largely equal partnership of different efforts, the Wife's indirect contributions were greater than the Husband's especially towards the end of the marriage. The Wife was the more financially secure partner in the marriage, having worked for the same employer from 2001 to 2017 and being relocated to the employer's various global offices.⁶⁴ The Husband moved from the UK to various parts of Asia during the marriage, and made multiple career moves and incurred various expenses to do so.⁶⁵ While the parties' move to Hong Kong in 2005 was a joint decision made on the basis that the Wife's employer would provide sufficient relocation funds to cover their costs of moving, the Husband was not able to immediately find employment in Hong Kong due to visa restrictions.⁶⁶ He continued to take the Wife's career relocations into account when making his own employment decisions.⁶⁷ I accept that he accommodated the Wife's career moves during the marriage at the expense of his own career development. I also accept that the Wife sought to ease the Husband's relocations, by, *inter alia*, extending her employment benefits to him and providing for him financially when he was not working.⁶⁸ She also cared for him in 2014 after he was assaulted.⁶⁹

⁶³ WWS at para 54; NE at p 11; Exhibit P2, Tables 2 and 5.

⁶⁴ Wife's AAM at p 31.

⁶⁵ HWS at para 3; Husband's AAM at para 24(vii).

⁶⁶ Husband's AAM at paras 22(iv)–22(vi); Wife's AM Affidavit at para 18.

⁶⁷ Husband AAM at paras 22(x)–22(xvi).

⁶⁸ Wife's AM Affidavit at paras 18–19, 22.

⁶⁹ Wife's AAM at paras 13(i), 13(j); Wife's AM Affidavit at paras 24–26.

59 The Husband contributed to the marriage by taking a lead role in purchasing the parties' various immovable properties and in renovating and managing the properties, especially when he was not employed.⁷⁰ While he claimed that he had sent all his money to her when he was working, there was no evidence of how much he sent, or even of what his salaries in his previous jobs were save for one.⁷¹ For her part, the Wife took charge of the management and administration of the immovable properties, and bore the burden of the property tax, maintenance and service charge payments.⁷² She also continued to support the Husband even after she separated from him in November 2016, through inter-spousal loans amounting to S\$16,600.61 and £1,000.⁷³

60 In the circumstances, I find that a ratio of indirect contributions of 60:40 between the Wife and the Husband is fair and equitable.

Step 3: The average ratio

61 The average ratios are derived as follows. For the immovable properties:

	Wife (%)	Husband (%)
Direct Contributions	50	50
Indirect Contributions	60	40
Average ratio	55	45

62 For the assets held in the parties' sole names:

⁷⁰ Husband's AAM at paras 21(a), 21(c)–21(e); Wife's AM Affidavit at para 8.

⁷¹ NE at p 5.

⁷² Wife's AM Affidavit at paras 12–16.

⁷³ Wife's 1st Affidavit in FC/SUM 890/2018 at para 13; Wife's AAM at para 13(l).

	Wife (%)	Husband (%)
Direct Contributions	85	15
Indirect Contributions	60	40
Average ratio	72.5	27.5

63 Based on the circumstances of the case, the average ratio of contributions may be adjusted to take into account, *inter alia*, the length of the marriage, the size of the matrimonial pool, and the extent and nature of the indirect contributions: *ANJ* at [27].

64 This was a moderately long marriage of 18 years and the parties under cl 4.1 the Deed intended for the net value of the immovable properties (which form the bulk of the matrimonial pool) to be shared equally. The Wife's indirect contributions to the marriage also outweighed the Husband's. In the circumstances, I do not consider it necessary to adjust the average ratios.

Apportionment of the assets

The immovable properties

65 The net values of the immovable properties are as follows:

S/No	Asset	Net value (S\$)	Reference
1	Hong Kong Property	1,742,483.09	[29]
2	London York Way Property	928,152.58	[30]
3	London Brentford Property	367,748.43	[31]
4	Loan from the Wife's father	(285,000.00)	[32]
	Total	2,753,384.10	

66 Applying the division ratio I arrived at above at [61], the Wife is entitled to a share of S\$1,514,361.26 (55%) and the Husband to a share of S\$1,239,022.85 (45%) of the matrimonial assets in this class.

67 The Wife submitted that she should retain the Hong Kong Property in her name, with the London Properties to be sold in the open market and the net sale proceeds divided 20:80 between her and the Husband.⁷⁴ However, the Hong Kong Property in the Wife's name exceeds her share of the immovable properties by S\$228,121.83 (being S\$1,742,483.09 – S\$1,514,361.26).

68 The Husband submitted that he should keep the London York Way Property in his own name, with the Hong Kong Property and the London Brentford Property to be sold.⁷⁵ His submissions took into account UK capital gains tax implications and other tax rules governing transfers of properties between divorcing spouses. I am unable to make any findings on this latter issue without the benefit of expert evidence on these matters of foreign law. In the circumstances, I am unable to accept his submissions. As the Husband does not claim to own any assets beyond his CPF Account and he has not offered any evidence on how he will be able to raise the money needed to pay for the Wife's share, he is unlikely to be able to purchase her share of the London York Way Property.

69 In the circumstances, I order that the three immovable properties are to be sold within six months of this judgment and the net sale proceeds divided 55:45 between the Wife and the Husband after all outstanding liabilities are

⁷⁴ NE at p 15; WWS at para 58.

⁷⁵ NE at pp 15–16.

accounted for. As all properties are situated outside Singapore, I make no orders on how the sales are to take place, save that the Wife will have sole conduct of the sales. Given the state of the relationship between the parties, a joint conduct of the sales is unlikely to be workable. In the event either party is able to raise the finances to buy over the other party's shares, they may make the necessary arrangements to do so between themselves.

The assets in the parties' sole names

70 The total net value of the assets in this class is S\$430,964.98 (see above at [55]). Applying the division ratio at [62], the Wife is entitled to a share of S\$312,449.61 (72.5%) and the Husband to a share of S\$118,515.37 (27.5%).

71 As the assets in the Husband's sole name amount to S\$65,991.33, he is entitled to S\$52,524.04 (being S\$118,515.37 – S\$65,991.33) to be paid by the Wife. However, this does not take into account his unpaid costs orders.

72 In *AVM v AWH* [2015] 4 SLR 1274 at [85], the High Court ordered that \$29,500.00 was to be deducted from the husband's share of matrimonial assets and added to the wife's share of matrimonial assets because the husband owed the wife the said sum arising from costs orders in previous personal protection proceedings, custody proceedings and in the present proceedings. A similar approach should be taken in this case.

73 The Wife is owed S\$37,600.00 in unpaid costs orders in the present proceedings. This sum includes the costs of S\$3,000 which I awarded in HCF/SUM 128/2019 (see above at [8]) and the indemnity costs of S\$7,000 which I ordered in High Court (Family) Summons No 227 of 2019, which was a further application filed by the Husband on 28 August 2019 to stay the present proceedings that was dismissed on 30 October 2019. I order that this sum is to

be deducted from the Husband's share of the matrimonial assets in the parties' sole names. In the result, the Wife is to transfer to him S\$14,924.04 (being S\$52,524.04 – S\$37,600). This transfer is to be made at the same time as the completion of the disposal of the last immovable property, whether by sale to third parties or transfer between parties.

Conclusion

74 For the reasons above, I make the following orders:

- (a) The three immovable properties are to be sold and their net sale proceeds divided 55:45 between the Wife and the Husband after all outstanding liabilities are accounted for.
- (b) The assets in the parties' sole names are to be divided 72.5:27.5 between the Wife and the Husband. After deducting the Husband's unpaid costs orders in the present proceedings, the Wife is to transfer S\$14,924.04 to the Husband at the same time as the completion of the disposal of the last immovable property, whether by sale to third parties or transfer between parties.
- (c) No maintenance is payable to the Wife or the Husband.

75 Parties are to file and exchange submissions on the issue of costs (limited to ten pages excluding exhibits and authorities) within 21 days from the date of this judgment.

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Tan Puay Boon
Judicial Commissioner

Hing Wei Yuen Angelina and Ng Yu Hui Michelle
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