**IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE**

**[2019] SGHCF 5**

High Court (Family Division) — Divorce (Transferred) No 3278 of 2016

Between

**USA**

… *Plaintiff*

And

**USB**

… *Defendant*

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# JUDGMENT

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

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# v
# USB

**[2019] SGHCF 5**

High Court (Family Division) — Divorce (Transferred) No 3278 of 2016
Tan Puay Boon JC
30 May, 26 July, 21 August 2018

29 January 2019 Judgment reserved.

**Tan Puay Boon JC:**

## Background

1 This judgment relates to ancillary matters arising from the breakdown of a marriage between the plaintiff ("the Wife") and the defendant ("the Husband"). The Wife, who was born in 1967, and the Husband, who was born in 1952, were married in February 2011. Prior to their marriage, the parties cohabited for a period of about 12 years beginning in 1999. The Wife commenced divorce proceedings in July 2016 and obtained interim judgment on 16 August 2016. Thus, the formal length of the marriage was about five and a half years.

2 The Husband is presently 66 years old and is employed as a lawyer. The Wife is 52 years old and is a real estate salesperson who has attained a senior position within a major real estate agency. There are no children of the marriage.

However, during the relationship, the parties lived with the Wife's two children from a previous marriage: a son, [P], who was born in 1991; and a daughter, [Q], who was born in 1994. [P] and [Q] were eight and five years old respectively at the time the parties began cohabiting, and 20 and 17 years old respectively at the time of the marriage.

3 The issues in dispute between the parties broadly relate to the division of matrimonial assets and maintenance. With regard to the latter, in this case, it is the Husband who seeks maintenance on the basis that he is an "incapacitated husband" within the meaning of s 113(1) of the Women's Charter (Cap 353, 2009 Rev Ed).

**Matrimonial assets**

4 The parties have taken sharply diverging positions over (a) the identity of the assets within the matrimonial pool, (b) the value of those assets and (c) the appropriate ratio for division.

5 Before I turn to these issues, I address the preliminary matter of which of two possible approaches I shall apply in dividing the matrimonial assets – the global assessment methodology or the classification methodology. The former methodology, which is more commonly used (see *TNC v TND* [2016] 3 SLR 1172 ("*TNC v TND*") at [39]), consists of four phases: First, the court identifies and pools all the matrimonial assets; secondly, the court assesses the net value of the pool of assets; thirdly, the court determines a just and equitable division of the assets; and fourthly, the court decides on the most convenient way to achieve these proportions of division (see *NK v NL* [2007] 3 SLR(R) 743 ("*NK v NL*") at [31]). As for the latter 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 v NL* at [32]).

6 As noted by the Court of Appeal in *NK v NL* at [33] and [35], both approaches are consistent with the legislative framework under s 112 of the Women's Charter, and in most cases, both approaches will lead to the same result. However, the classification approach is generally appropriate where there are multiple classes of assets which "lend themselves to classification" (see *AYQ v AYR* [2013] 1 SLR 476 at [19]) and where parties have made different contributions in relation to each class (*NK v NL* 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" (see *TNC v TND* at [40]).

7 In the present case, I consider that it is appropriate to adopt the global assessment methodology rather than the classification methodology for the following reasons:

(a) First, the assets do not lend themselves readily to the classification approach as there is no clearly distinguishable asset or group of assets in which the proportion of the parties' respective contributions is different from the other assets. It will be seen that across the various matrimonial assets, the Wife has generally made greater direct contributions.

(b) Secondly, the parties have made their submissions on the basis that the global assessment methodology would be employed.

(c) Thirdly, while it might be said that some of the assets which were purchased prior to the marriage are "not wholly the gains of the co-operative partnership of efforts that the marriage represents" (see [15]–[20] below), this will be addressed by excluding from the pool of assets

a *pro rata* value corresponding to the amount which was paid for prior to the marriage (see [70]–[80] below).

8 I shall discuss the identity and value of the matrimonial assets, and the appropriate ratio for division in turn.

***Identifying the matrimonial assets***

9 The Wife owns a total of 17 residential and non-residential properties, some of which are held through companies of which the Wife is a sole shareholder. As a preliminary matter, it should be noted that for the purpose of these proceedings, the parties have agreed that there is no need to value the holding companies and the value to be ascribed to these companies shall be taken as the value of the properties owned by each respective company, if any.

10 Of the 17 real properties owned by the Wife, it is common ground between the parties that the following seven properties which were purchased during the marriage should be included in the pool of matrimonial assets:

(a) A property at Telok Kurau Road ("the Telok Kurau Property");

(b) A condominium unit on Fraser Street ("the Fraser Street Property");

(c) Two units at Bukit Batok West Avenue 8 ("Bukit Batok Property A" and "Bukit Batok Property B" respectively);

(d) Two units at Alexandra Road ("Alexandra Property A and Alexandra Property B" respectively); and

(e) A condominium unit at Changi Road ("the Changi Road Property").

11 In addition, the parties also agree that a property at Sunrise Close ("the Sunrise Close Property") should be included in the pool of matrimonial assets because, while it was purchased by the Wife before the marriage, it was used by the parties as their matrimonial home.

*Assets purchased before the marriage*

12 The main point in dispute relates to whether the following nine properties, which were purchased by the Wife before the marriage ("the Pre-Marriage Properties"), should be included in the pool of matrimonial assets:

(a) A unit at Bedok North Street 3 ("the Bedok North Property");

(b) Two units at Telok Blangah Drive ("Telok Blangah Property A" and "Telok Blangah Property B" respectively);

(c) A unit at Compassvale Bow ("the Compassvale Property");

(d) A unit at Marina Boulevard in which the Wife has a one-third share ("the Marina Boulevard Property");

(e) Two units at Robertson Quay ("Robertson Quay Property A" and "Robertson Quay Property B" respectively);

(f) A property at Woodleigh Close ("the Woodleigh Property"); and

(g) A property at Leedon Heights ("the Leedon Property").

By way of interjection, I note that the Husband has suggested that Robertson Quay Property B, the Leedon Property and the Woodleigh Property were purchased or acquired after the marriage because the transfer of title for these

properties was only registered after the marriage.[1] The fact, however, is that the sale and purchase agreements in respect of these properties were entered into *before* the marriage, and partial payments (such as option fees and deposits) were also made prior to the marriage.[2] Counsel for the Husband have recognised this in stating, in their written submissions, that:[3]

> [I]n respect of [the Leedon Property and the Woodleigh Property], [the Husband] had used the date of registration of the instrument of transfer. We however acknowledge that the sale and purchase agreements were signed *before* the registration of the marriage and they thus fall under the rubric of the disputed assets. [emphasis in original]

The same reasoning applies to Robertson Quay Property B. I have thus treated these properties as assets purchased prior to the marriage, and reject the Husband's suggested approach of taking the date of registration of the transfer as the reference point. That approach would have been inconsistent with the Husband's own position that "acquisition" of these assets was taking place as long as payments on these properties were being made (see [14]–[15] below).

13 The Wife takes the position that the Pre-Marriage Properties are not matrimonial assets within the meaning of s 112(10) of the Women's Charter.[4] She submits that these were assets acquired before the marriage and, pursuant to s 112(10)(*a*), such assets only constitute matrimonial assets if they were ordinarily used or enjoyed by the parties while residing together within the meaning of s 112(10)(*a*)(i), or if they were substantially improved during the

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1 Husband's ancillary matters fact and position sheet, Annex B.

2 Wife's 23 March 2017 affidavit, pp 916 and 1094.

3 Husband's 21 August 2018 amended written submissions, para 15.

4 Wife's 14 May 2018 written submissions, paras 45–47.

marriage by the Husband or by both parties within the meaning of s 112(10)(*a*)(ii) of the Women's Charter. The Wife contends that neither s 112(10)(*a*)(i) nor s 112(10)(*a*)(ii) are applicable to the Pre-Marriage Properties, and that they should thus be excluded from division. The Wife further stresses that the Husband did not contribute financially towards the acquisition of these Pre-Marriage Properties, and that she had assumed sole responsibility for the debt which she incurred to finance the purchase of these properties. She also submits that the Husband has "all along distanced himself from [her] property investments".[5]

14 The Husband argues that although these Pre-Marriage Properties were *purchased* before the marriage, they were *acquired* during the marriage within the meaning of s 112(10)(*b*) of the Women's Charter. This is because the Wife had continued to pay mortgage instalments for these properties during the marriage. In this regard, the Husband cites *BHN v BHO* [2013] SGHC 91 ("*BHN v BHO*") and *THL v THM* [2015] SGHCF 11 ("*THL v THM*") as authorities for the proposition that a property purchased prior to the marriage may constitute an asset "acquired during the marriage" where instalments continue to be paid during the marriage. In addition, the Husband argues that Robertson Quay Properties A and B, as well as the Compassvale Property, are matrimonial assets because they were substantially improved by the Husband during the marriage within the meaning of s 112(10)(*a*)(ii) of the Women's Charter.

15 I agree with the Husband that the Pre-Marriage Properties cannot be excluded entirely from the matrimonial pool. Apart from *BHN v BHO* and *THL v THM*, the decisions of *BGT v BGU* [2013] SGHC 50 and *UJF v UJG* [2018]

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5 Wife's 10 August 2018 written submissions, para 10(d)–(f).

SGHCF 1 ("*UJF v UJG*") also support the proposition that, in the context of s 112(10) of the Women's Charter, the "acquisition" of an asset refers not only to its purchase, but to the continuing process of payment for that asset in mortgage instalments. Thus, to the extent that the Wife continued to pay for the Pre-Marriage Properties during the parties' marriage, these assets should be included in the pool of matrimonial assets.

16 The Wife sought to argue that these Pre-Marriage Properties should be excluded from the pool because the Husband had distanced himself from her property investments. I was not persuaded by this. It is true that in exceptional circumstances, the court may exclude even an asset which was acquired during the marriage from the pool of matrimonial assets. An example of this is the case of *Ong Boon Huat Samuel v Chan Mei Lan Kristine* [2007] 2 SLR(R) 729 ("*Ong Boon Huat Samuel*"). There, the parties had agreed to purchase an apartment in their joint names in February 2002, but shortly thereafter, their relationship broke down. The wife subsequently refused to sign the mortgage documents unless the husband would enter into a deed to record their understanding that he would be solely responsible for all the liabilities arising out of the purchase of the apartment. When the husband refused to sign the deed, the wife pulled out of the purchase, incurring abortive costs. The husband proceeded to purchase the apartment in his sole name in May 2003.

17 The Court of Appeal held that the apartment should not be included in the pool of matrimonial assets because this was the only determination that was consistent with the wife's consistent position that she would have no part in the purchase of the apartment and all liabilities associated therewith (at [15]). The wife had made her intentions to have no part in the purchase "exceptionally clear" by seeking to enter into a legally binding agreement (*ie*, the deed) which would confirm that she would share no responsibility for the liabilities arising

from the purchase (at [21]). She had also actively sought to distance herself from liability for any of the abortive costs (at [18]). The court further noted that the apartment had been purchased after the parties' relationship had already deteriorated (at [20]). It was in this context that the Court of Appeal held that, notwithstanding the fact that the apartment was acquired during the marriage and technically came within the definition of a matrimonial asset in s 112(10), the court should not exercise its powers of division in relation to the apartment (at [25]–[26]).

18 In my judgment, the facts of the present case are distinguishable from *Ong Boon Huat Samuel*. To begin with, unlike *Ong Boon Huat Samuel*, the Pre-Marriage Properties were not purchased at a time when the relationship between the parties had deteriorated. Rather, they were purchased at a time when the parties presumably enjoyed a close relationship (given that they were cohabiting), and were then incrementally paid for in the following years, during which time the parties formalised their relationship in marriage.

19 Further, the *presumptive* position under s 112(10)(*b*) is that any asset acquired during the marriage is a matrimonial asset which is liable to division. Seen in this context, the mere fact that one party has solely paid for an asset cannot, without more, suffice to exclude that asset from the matrimonial pool, for to adopt such an approach would strip s 112(10)(*b*) of much of its meaning. In *Ong Boon Huat Samuel*, the court did not exclude the apartment in question from division merely because its purchase had been financed entirely by the husband. Rather, the court's determination was influenced by the fact that the wife had deliberately sought to dissociate herself from the purchase of the apartment and its attendant liabilities in a way that was "exceptionally clear". In contrast, in the present case, the only facts which the Wife relies on are that, in the course of these proceedings, the Husband has expressed disapproval of

her property acquisitions and has described her as a "greedy woman who wanted to buy more and more properties just to satisfy her insatiable appetite for real assets and wealth".[6] I do not think that this is sufficient reason to exclude the Pre-Marriage Properties from the pool of matrimonial assets entirely.

20 I accept, however, that given that these Pre-Marriage Properties were partially paid for before the marriage, the court should not take the whole value of these assets as being included in the pool of matrimonial assets, but only that part of the acquisition that coincides with the period of the marriage (*UJF v UJG* at [62]). This is a point which I will address when I discuss the value of these matrimonial assets at [70]–[80] below.

21 Finally, I note that in the period between the interim judgment and the ancillary matters hearing, the Wife has forfeited the Fraser Street Property to the developer, and has sold the Bedok North Property as well as the Woodleigh Property.[7] Since the identity of matrimonial assets is ascertained with reference to the date of interim judgment, (see *ARY v ARX* [2016] 2 SLR 686 at [28]), these properties continue to form part of the pool of matrimonial assets. The proportion of the proceeds of these disposals which ought to be included in the matrimonial pool will be discussed at [55]–[64], [75] and [78] below.

*Assets which were allegedly "substantially improved"*

22 As mentioned, the Husband argues that three of the Pre-Marriage Properties should be included in the pool of matrimonial assets because, apart from the point that the acquisition of these assets continued during the marriage

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6 Wife's 10 August 2018 written submissions, para 10(f).

7 Husband's 21 August 2018 amended written submissions, para 31.

through mortgage instalments, he also substantially improved these properties during the marriage. Thus, it is submitted that they constitute matrimonial assets under s 112(10)(*a*)(ii) of the Women's Charter. The significance of this point is that if the Husband's arguments are accepted, then the increase in value of these assets resulting from his alleged improvements would also be subject to division (see *UJF v UJG* at [59]), in addition to the proportions of these assets which were "acquired" during the period of the marriage through mortgage instalments.

23 The element of "substantial improvement" requires that a direct causal connection be shown between the contributions of the relevant party or parties and the improvement of the asset (see *Law and Practice of Family Law in Singapore* (Valerie Thean JC and Foo Siew Fong eds) (Sweet & Maxwell Asia, 2016) ("*Law and Practice*") at para 4.2.21, citing *Chen Siew Hwee v Low Kee Guan (Wong Yong Yee, co-respondent)* [2006] 4 SLR(R) 605). It also excludes *de minimis* contributions (*Shi Fang v Koh Pee Huat* [1996] 1 SLR(R) 906 at [41]–[43]).

24 The properties which the Husband alleges he "substantially improved" are Robertson Quay Properties A and B, as well as the Compassvale Property. With regard to Robertson Quay Property A, however, the Husband has not substantiated how he improved the property. Although reference was made in his written submissions to his first affidavit of assets and means,[8] the relevant sections cited only discussed his alleged improvements to Robertson Quay

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8 Husband's 21 August 2018 amended written submissions, para 19.

Property B and the Compassvale Property.[9] I shall, therefore, only consider the alleged improvements to these properties.

(1) Robertson Quay Property B

25 The Husband alleges that he substantially improved Robertson Quay Property B because in 2012, he, together with the Wife, invested a total of $120,000 in renovating and outfitting the premises to accommodate a café business. Some of this money went towards purchasing equipment like ovens, chillers, heaters and other utensils for the café business. Although the café business failed, the Husband alleges that as a result of the parties' investment, the new tenant was able to enjoy the benefit of the newly renovated premises, alongside the new equipment and utensils which the parties purchased. The Husband also claims that he was involved in Strata Titles Boards proceedings brought by the Wife against the MCST of the condominium development to secure approval for an upgrade of the electrical supply for Robertson Quay Property B ("the STB Proceedings").[10]

26 The Wife's position is that the renovations to Robertson Quay Property B to accommodate the parties' café business did not substantially improve the property. The unit was left vacant for two years after the parties ceased operating the café business. When a new tenant occupied Robertson Quay Property B, it disposed of all the equipment that came with the café and renovated its interiors afresh.[11] Further, the Wife submits that the Husband was not involved in the

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9 Husband's 1 December 2016 affidavit, paras 23–24.

10 Husband's 1 December 2016 affidavit, para 23(d).

11 Wife's 14 May written submissions, paras 60–63.

STB Proceedings, and that she solely paid for both the legal costs arising from these STB Proceedings, as well as the works to upgrade the electrical supply.

27 In my judgment, the Husband has failed to establish that he "substantially improved" Robertson Quay Property B. As for the parties' joint investment in renovating and outfitting the property for their café business, I find that there is no direct causal connection between this joint contribution and any improvement in the value of this asset. The Husband does not dispute the Wife's account that the unit was left vacant for two years after their café business ceased, and that the new tenant renovated the premises entirely and did not make use of whatever fixtures or equipment were left behind by the parties from their defunct café business. As for the efforts that were made to upgrade the electrical supply, the Husband has not furnished any details of his alleged involvement in the STB Proceedings, save that he introduced the Wife to the lawyer who represented her in the action against the MCST. Given that the Wife was the party who funded the proceedings as well as all upgrading works, I find that the Husband's contribution was *de minimis* and could not constitute a "substantial improvement". For the avoidance of doubt, any "substantial improvement" which the Wife may have made individually in upgrading the electrical supply would not suffice to bring Robertson Quay Property B within the definition of a matrimonial asset under s 112(10)(*a*)(ii), since that provision only applies where the substantial improvements are made "by *the other party* (in this case, the Husband) or both parties to the marriage".

(2) The Compassvale Property

28 The Compassvale Property is a commercial shop unit located within a condominium. The current tenant operates a childcare centre on the premises. The Husband's account of how he "substantially improved" the unit is as

follows: Sometime in January 2010, the parties relocated the main door of this unit to the side facing the main road. The result of this was to make the unit accessible from the main road, instead of only through the condominium, such that parents would not have to enter the condominium to fetch their children from the childcare centre. In the Husband's submission, this has improved the value of the property. After the repositioning of the main door was complete, a dispute arose with the condominium's MCST over whether the parties required approval for their modifications to the property. The parties tried to secure a 90% resolution approving their modifications to the Compassvale Property at an annual general meeting of the subsidiary proprietors, but this proved unsuccessful. The Husband then researched the law and formed the view that it was unnecessary to obtain a 90% resolution. He wanted to take the MCST to court over this issue. However, the chairman of the MCST persuaded the parties "to keep the matter in abeyance". Eventually, the Husband "realized that the glass door opening [had] remained in existence for more than 6 years already without any enforcement action being taken by the MCST", and that the MCST was therefore prevented from taking any action against the parties by virtue of the Limitation Act (Cap 163, 1996 Rev Ed).[12] In this way, he "fought hard, very hard for the [Wife] to secure this re-positioning of the door".[13]

29 The Wife's position is that she was the party who liaised with the chairman of the MCST, engaged an engineer, and paid the sum of $4,462 to secure the repositioning of the door to the Compassvale Property.[14] Any involvement by the Husband was "minimal at best".[15]

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12 Husband's 1 December 2016 affidavit, para 24.

13 Husband's 1 December 2016 affidavit, para 24 (l).

14 Wife's 14 May 2018 written submissions, para 66(b).

30 I agree with the Wife. The Husband cannot be said to have substantially improved the Compassvale Property. Any enhancement in the value of the property is attributable to the *actual* repositioning of the door, and the actual repositioning of the door was paid for and arranged by the Wife. The Husband's involvement in the subsequent dispute that arose between the parties and the condominium's MCST was limited and bore no causal connection with the enhancement of the property. Accordingly, I find that the language of s 112(1)(10)(a)(*ii*) of the Women's Charter is inapplicable to the Compassvale Property.

### *Valuing the matrimonial assets*

*Date for valuation of the Wife's properties*

31 A key point of disagreement between the parties relates to the appropriate date for valuing the assets. The Wife takes the position that all matrimonial assets ought to be valued as at 30 September 2016 (hereinafter, "the IJ Date", as parties have agreed to treat this as the date of interim judgment).[16] Since she has submitted that the pool of matrimonial assets ought to be determined as of this date, "to maintain consistency", she argues that the IJ Date should also be used as the date on which to determine the value of the assets.[17]

32 The Husband argues that the value of the matrimonial assets should instead be determined as at 31 December 2017 (hereinafter, "the AM Date", as

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15 Wife's 14 May 2018 written submissions, para 67.

16 Wife's 14 May 2018 written submissions, para 19.

17 Wife's 14 May 2018 written submissions, para 34.

parties have agreed to treat this as the date of the ancillary matters hearing).[18] In this regard, he cites *TDT v TDS* [2016] 4 SLR 145 ("*TDT v TDS*") and *TND v TNC and another appeal* [2017] SGCA 34 ("*TND v TNC*") where the Court of Appeal has affirmed the position that generally, the date of the ancillary matters hearing is to be adopted for the purpose of valuing the matrimonial assets. The Husband submits that in this case, there are no special circumstances warranting a departure from this presumptive position.[19]

33 I agree with the Husband that the matrimonial assets should be valued as at the AM Date. I am bound by the Court of Appeal's ruling in *TDT v TDS* at [50] and I do not consider that there are exceptional facts which would justify a departure from the default position. While the Wife argues that the matrimonial assets should be valued as at the IJ Date "for consistency" because the date for *identifying* the matrimonial assets is also the IJ Date, I do not accept this argument. If the Wife's position were correct, the default position in *every* case would be that the date of interim judgment should be used to value the matrimonial assets, since the default position is that the matrimonial assets are identified as at the date of interim judgment (see *ARY v ARX* [2016] 2 SLR 686 at [28]). That would run contrary to the holdings of the Court of Appeal in *TDT v TDS* at [50] and *TND v TNC* at [19]–[20].

34 The appropriate date for valuation assumes particular significance in the context of valuing the Wife's real properties, since the market value of many of these real properties is significantly higher as at the AM Date as compared to the IJ Date. On the other hand, I note that in their Joint Summary of Relevant

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18 Husband's 21 August 2018 amended written submissions, para 21.

19 Husband's 21 August 2018 amended written submissions, para 27.

Information ("JSRI"), the parties have stated their respective positions as to the value of several matrimonial assets with reference to the IJ Date instead of the AM Date. Some of these assets include bank accounts and CPF accounts, but they also include several non-money assets such as a motor vehicle, and shares.

35 In my view, it is appropriate to value the bank accounts and CPF accounts as at the date of the interim judgment. These are unique assets in that their value is tied to the quantum of funds therein. Accordingly, the value of such assets in the pool of matrimonial assets at the ancillary matters date should be substantially similar to that as at the interim judgment date. As for the non-money assets, however, these should rightly have been valued as at the ancillary matters date, but the Wife did not provide disclosure of the updated values of these assets as at the AM Date. Given the limitations in the evidence, and since the parties had both stated the value of these assets with reference to the IJ Date in their JSRI, I shall adopt the IJ Date as the operative date in valuing these assets. In this regard, although the Husband has in fact disclosed an updated valuation of his shares as of the AM Date (such value having increased by about $3,000 since the IJ Date),[20] as a matter of fairness I shall adopt the valuation agreed on in the JSRI, which is determined with reference to the IJ Date.

*Agreed values*

36 The parties have agreed on the values of the following matrimonial assets:[21]

| **Agreed Values** |
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[20] H-1, para 18.

[21] Wife's 14 May 2018 written submissions, paras 75–76; Husband's 21 August 2018 amended written submissions, paras 90–91; JSRI, pp 9–14.

| | **Asset** | **Amount ($)** |
|---|---|---|
| Wife's Assets | CPF account | 161,088.48 |
| | Unit Trusts | 13,627.65 |
| | Moneys held by Husband's counsel as stakeholders in relation to the forfeiture of a property at Fraser Street, including refund of stamp duty from IRAS (it should be noted that this is a different property from the "Fraser Street Property" mentioned at [10(b)] above) | 219,422.02 |
| Husband's Assets | CPF account | 51,544.85 |
| | POSB bank account ("POSB Bank Account A") | 50,822.24 |
| | Insurance policies | 6,174.45 |
| | Shares (as at IJ date) | 16,205.00 |

*Disputed values*

37 The assets whose values are disputed between the parties may broadly be grouped as follows:

(a) Assets other than real property;

(b) Wife's real property.

I shall discuss each of these categories in turn.

(1) Assets other than real property

38 The parties disagree over the value of (a) the Wife's motor vehicle, (b) the Wife's shares, and (c) the Wife's bank accounts. There is also the further issue of the value of the Husband's bank accounts (apart from POSB Bank Account A).

WIFE'S MOTOR VEHICLE

39 As for the Wife's motor vehicle, a European car, the Wife submits that it is worth $48,000. While the Husband accepts this valuation, he argues that it fails to take into account the additional value of the Wife's unique license plate number (two letters followed by a two-digit number), which, the Husband asserts, is worth about $100,000.[22] In support of his assertion that the license plate is "worth no less than $100,000", the Husband has exhibited a list of "Bidded Car Plate Numbers for Sale" from the website sgCarMart.com.[23] The Wife's license plate number is, itself, not listed for sale in this document. A closer look at the exhibit shows that of the fifty unique two-digit license plate numbers listed for sale therein, about a quarter of the sellers have listed asking prices of less than $5,000, about half have listed asking prices of between $5,000 and $20,000, and about a quarter have listed asking prices in excess of $20,000. Only two sellers have listed asking prices in excess of $100,000. It is clear that the Husband's estimate that the Wife's license plate number is worth $100,000 is excessive and unsupported by the evidence. The evidence does suggest, however, that the asking prices for license plate numbers with a format similar to the Wife's tend to be higher, and were generally in excess of $30,000.[24] On the other hand, it is doubtful that the *asking price* for these license plate numbers is an accurate indication of their true market value, and some discount should be applied to account for this. Taking the evidence in the round, I consider $25,000 to be a fair estimate of the value of the Wife's license plate number. Thus, the value of the motor vehicle is $73,000 ($48,000 + $25,000).

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22 JSRI, p 11 (item 13).

23 Husband's 22 November 2017 affidavit, pp 68–71.

24 Husband's 22 November 2017 affidavit, pp 69–70.

WIFE'S SHARES

40 The Wife claims that the total value of her shareholding is $293,471.08.[25] The Husband's position is that the Wife's shares are worth $321,102.71.[26] According to the parties' remarks in the JSRI, this difference in position is attributable to the fact that the Husband derived the total value of the Wife's shareholding from figures reflected in the main body of the Wife's first affidavit of assets and means.[27] It appears that the figures stated in the main body of the Wife's first affidavit of assets and means are erroneous. They do not accurately reflect the value of the Wife's shares in Keppel Corp, Super Group, "FID-Amer A" and "FT-Global AS" as stated in the Wife's Singapore Exchange statements, which are appended to the same affidavit.[28] Thus, the accurate value of the Wife's shareholding is instead $293,471.08, based on the following breakdown:

| **Shares** | **Value** |
|---|---|
| United Asia Pacific Infrastructure Fund | $5,563.08 |
| Eucon | $1,950.00 |
| Golden Agri-Res | $11,005.00 |
| New Silkroutes | $13,400.00 |
| Super Group (33,400 shares) | $26,553.00 |
| Keppel Corp | $53,900.00 |
| Super Group (19,600 shares) | $15,582.00 |
| FID-Amer A | $95,078.00 |
| FT-Global AS | $70,440.00 |
| **TOTAL** | $293,471.08 |

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25 Wife's 14 May 2018 written submissions, para 75 (p 30).

26 Husband's 21 August 2018 amended written submissions, para 90.

27 JSRI, p 10 (item 11).

28 Wife's 1 December 2016 affidavit, p 238.

WIFE'S BANK ACCOUNTS

41 The Wife's position is that, at IJ Date, her bank accounts had funds worth $86,266.78.[29] The Husband's position is that the Wife's bank accounts had funds worth $98,847.91 at this date.[30] This $12,581 difference in valuation is largely attributable to the fact that the Husband's computation of the value of the Wife's bank accounts includes a $12,000 "OCBC 5 yr SGD Equity-Linked" structured deposit.[31] The Wife does not dispute that this structured deposit forms part of her assets, but she has included it under the heading of "unit trusts" in her submissions and her ancillary matters fact and position sheet.[32] Since the agreed valuation of her unit trusts as stated in the JSRI ($13,627.65 – see [36] above) did *not* take this structured deposit into account, it is appropriate that this structured deposit be included in the computed value of the Wife's bank accounts.

42 As for the remaining difference of $581 between the Husband's valuation and the Wife's valuation, this difference is due to the fact that, according to the Husband, the Wife's computation fails to take into account a sum of $395.05 in the Wife's UOB Global Currency account, and a sum of $186.08 in the Wife's OCBC EasiCredit account. I find that the Husband's claims are supported by the Wife's bank statements, save that in relation to the Wife's UOB Global Currency Account, the Husband appears to have derived the figure of $395.05 as the Singapore-dollar value of the balance of US$297.03

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29 Wife's 14 May 2018 written submissions, para 75 (p 30).

30 Husband's 21 August 2018 amended written submissions, para 90.

31 JSRI, pp 9–10 (Husband's remarks on item 9).

32 Wife's 14 May 2018 written submissions, para 75 (p 30).

in this account as at the IJ Date.[33] However, applying the prevailing exchange rate of US$1 = S$1.3656 as at this date, the Singapore-dollar value of the balance is $405.62. Thus, taking into account this sum, as well as the sum of $186.08 in the Wife's OCBC EasiCredit account, and the $12,000 OCBC structured deposit, the accurate value of the Wife's bank accounts is $98,858.48.

HUSBAND'S BANK ACCOUNTS IN HIS SOLE NAME

43 The Husband claims that a POSB account in his sole name ("POSB Bank Account B") as well as a UOB One account in his sole name ("UOB One Account") have a combined value of $42,012.58.[34] It is not clear how this figure is derived. The Husband did not disclose his bank account statements as of the IJ Date for both of these accounts. The closest date to the IJ Date for which bank account statements are in evidence is 31 August 2016. As of this date, there were funds of $1,133.06 in POSB Account B,[35] and funds of $43,069.31 in the UOB One Account.[36] I adopt these figures. Thus, the value of these two bank accounts is a total of $44,202.37.

(2) Wife's real properties

44 Broadly speaking, the Wife's real properties may be divided into two categories: (a) properties which were acquired after the marriage, as well as the Sunrise Close Property which is the matrimonial home; and (b) the Pre-Marriage Properties. The full net value of the assets acquired after the marriage

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33 JSRI, pp 9–10 (Husband's remarks on item 9); Wife's 1 December 2016 affidavit, pp 211 (UOB Global Currency) and 363 (OCBC EasiCredit).

34 Husband's 21 August 2018 amended written submissions, para 91.

35 H-1, p 25.

36 H-1, p 48.

and the matrimonial home should be included in the pool of matrimonial assets. On the other hand, with regard to the Pre-Marriage Properties, only a part of the value corresponding to the portion of the asset which was acquired *during* the marriage should be included in the matrimonial pool (see [20] above). I will discuss these two categories in turn.

PROPERTIES PURCHASED AFTER MARRIAGE AND MATRIMONIAL HOME

45 Both parties proffered competing valuations of the Wife's real properties. The Husband obtained valuation reports for some of the properties as at the AM Date from Allied Appraisal Consultants Pte Ltd ("Allied"). He claims he did not obtain valuation reports for the other properties owing to costs constraints. As for the Wife, perhaps because she took the position that the matrimonial assets should be valued as at the IJ Date, up until 11 April 2018, she only obtained valuation reports for her properties as at the IJ Date from Premas Valuers & Property Consultants ("Premas"). On 11 April 2018, however, in her fourth affidavit of assets and means, the Wife sought to provide an updated valuation of her properties as at the AM Date by Premas. The Husband complains that this "updated valuation" simply took the form of a "Whatsapp" message from Premas, purportedly stating the updated values of the properties without any supporting information as to how these figures were derived.[37]

46 As discussed at [33] above, I am of the view that the AM Date is the appropriate date for valuation. As between the Husband's valuations which were obtained from Allied and the Wife's "valuations" as at the AM Date from

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37 Husband's 21 August 2018 amended written submissions, para 29.

Premas, I find that the Husband's valuations are to be preferred. I agree with the Husband that the evidence relied on by the Wife – a screen capture of a Whatsapp message from Premas which does not even identify the properties by address but refers to the properties as "Ppty 1" through "Ppty 17" – is unsatisfactory. In contrast, Allied's valuation reports state that the basis of each valuation is a comparison with recent transactions of comparable properties within the vicinity,[38] and include the factors which were taken into account.[39] I see no reason to doubt the objectivity and credibility of these valuations. They are, to some extent, corroborated by the Wife's updated "valuations" from Premas in that, although Premas's updated valuations are lower than Allied's, they are significantly higher than Premas's own valuations as at IJ Date and thus show that the market value of the properties has increased significantly as of the AM Date. For these reasons, I shall adopt the values proffered by Allied for the properties in respect of which the Husband has obtained valuation reports. I set out these properties and their respective values in the following table:

| **Property** | **Allied's valuation ($)** |
|---|---:|
| The Sunrise Close Property | $3,500,000 |
| Bukit Batok Property A | $2,500,000 |
| Bukit Batok Property B | $2,300,000 |
| Alexandra Property A | $750,000 |
| Alexandra Property B | $5,500,000 |

47 The Husband did not obtain valuation reports in respect of the Telok Kurau Property and the Changi Road Property. His position is that the Telok Kurau Property is worth $1,280,000, and that the Changi Road Property is worth $1,180,000. The basis for both these figures is that they are the asking prices at

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[38] See eg Husband's 3rd affidavit of assets and means, 27 February 2018, pp 658.

[39] Husband's 3rd affidavit of assets and means, 27 February 2018, pp 611–666.

which the Wife has listed these properties for sale on the website www.commercialguru.com.sg.[40] According to the Wife's valuations obtained from Premas, the value of the Telok Kurau Property as at the AM Date is $1,000,000, while the value of the Changi Road Property at the same date is $750,000.[41]

48 I do not consider that the asking price which the Wife has listed on www.commercialguru.com.sg is an accurate indication of the market value of these properties, since there is nothing to suggest that a willing buyer would actually offer to purchase these properties at the prices which the Wife has listed. While I have reservations about the manner in which the Wife has adduced the updated valuations from Premas, the Husband has not offered a credible alternative estimate of the true market value of these properties. Allied's valuations, however, suggest that Premas' valuation of the properties as at the AM Date may have been somewhat conservative. In the circumstances, I consider it appropriate to gauge the market value of these properties by applying a slight 10% uplift to Premas's figures. Thus, the values of the Telok Kurau Property and the Changi Road Property are as stated in the following table:

| **Property** | **Premas's value** | **Court's finding as to market value** |
|---|---|---|
| The Telok Kurau Property | $1,000,000 | $1,100,000 |
| The Changi Road Property | $750,000 | $825,000 |

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40 Husband's 21 August 2018 amended written submissions, paras 53, 68 and 69.

41 Wife's affidavit for ancillary matters, 11 April 2018, pp 188–189 (items 14 and 16 at p 189).

49 The above analysis relates to the *gross* value of the properties which the Wife purchased after marriage and the matrimonial home. To obtain the net value of these properties, it is necessary to deduct from the gross value the outstanding liabilities against each of the properties as at the AM Date. The table below sets out the net value of all properties purchased after the marriage as well as the matrimonial home:

| **Property** | **Gross value** | **Outstanding liabilities as at AM Date**[42] | **Net Value** |
|---|---|---|---|
| The Sunrise Close Property | $3,500,000.00 | $1,430,899.49 | $2,069,100.51 |
| Bukit Batok Property A | $2,500,000.00 | $1,269,794.53 | $1,230,205.47 |
| Bukit Batok Property B | $2,300,000.00 | $1,199,007.50 | $1,100,992.50 |
| Alexandra Property A | $750,000.00 | $664,292.87 | $85,707.13 |
| Alexandra Property B | $5,500,000.00 | $3,578,421.69 | $1,921,578.31 |
| The Telok Kurau Property | $1,100,000.00 | $645,016.31 | $454,983.69 |
| The Changi Road Property | $825,000.00 | $517,017.56 | $307,982.44 |

50 This leaves me to address the value of the Fraser Street Property, which was forfeited to the developer in September 2017.[43] The Husband accepts that when the Fraser Street Property was forfeited to the developer, the Wife received a total of $454,887.95 in proceeds, and thus, this is the net value to be included in the pool of matrimonial assets.[44]

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42 H-3; Husband's 21 August 2018 amended written submission, paras 58, 62, 63, 67, 74, 55 and 69 (in respective order as listed in the table below).

43 Husband's 21 August 2018 amended written submissions, para 32; Wife's 14 May 2018 written submissions, para 75 (p 28, item 3).

44 Husband's 21 August 2018 amended written submissions, para 32;

PRE-MARRIAGE PROPERTIES DISPOSED OF AFTER INTERIM JUDGMENT

51 I turn to address the value of the Pre-Marriage Properties, beginning with the values which should be attributed to the Bedok North Property and the Woodleigh Property. As noted at [21] above, these properties were sold by the Wife in the period between the grant of interim judgment and the ancillary matters hearings. As will be seen, the parties dispute whether the Wife utilised the proceeds in the way that she claims she did, and whether the proceeds which the Wife received should be included in the pool of matrimonial assets.

52 As for the Bedok North Property, the Wife sold this property for $2,390,000 in July 2017.[45] A sum of $442,299.80 was paid to the mortgagee bank,[46] and, after several payments were made towards transaction costs and legal costs, the Wife received net sale proceeds of $1,867,587.45. However, the Husband highlights that in addition to $1,867,587.45, a cheque of $51,146.00 was drawn from the proceeds in favour of the Wife's real estate agency. The Husband argues that this cheque was "presumably … commission for the sale", and since the Wife was the real estate salesperson involved in the sale, this sum must ultimately have been paid to her. Thus, the Husband claims that the proceeds which the Wife received, and which should be added to the pool of matrimonial assets, is $1,918,733.45 ($1,867,587.45 + $51,146.00).

53 The Wife's position, as alluded to above, is that the Bedok North Property is not a matrimonial asset and therefore no part of the sales proceeds should be included in the pool. In any event, she has claimed that she utilised

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45 Wife's affidavit for ancillary matters, 27 February 2018, p 81.

46 Wife's affidavit for ancillary matters, 27 February 2018, pp 72 and 83; Husband's 21 August 2018 amended written submissions, para 42.

the proceeds of the sale of the Bedok North Property, *inter alia*, to inject funds as working capital into her various companies, to make certain mortgage payments in respect of the Telok Kurau Property and Robertson Quay Properties A and B, and, in large part, to pay off some $1,141,249.44 worth of credit card loans which she claims she had taken to cope with her monthly payments on two properties which she purchased at Fraser Street (including the Fraser Street Property and another unit in the same development).[47]

54 As for the Woodleigh Property, it was sold for a price of $1,188,888. It seems the Wife received $249,294.92 of the sale proceeds. The remainder was used for various legal and transactional costs, while $864,060.05 was used towards repayment of a $960,000 loan from Ethoz Capital Ltd ("Ethoz Capital").[48] The Husband highlights that this loan from Ethoz Capital was taken out in October 2016, *after* the grant of interim judgment. He thus submits that this liability ought to be disregarded. In this respect, he cites *Wan Lai Cheng v Quek Seow Kee* [2012] 4 SLR 405 ("*Wan Lai Cheng*") for the proposition that upon the commencement of divorce proceedings, neither spouse is entitled to incur liabilities on any matrimonial assets for his or her sole benefit to the detriment of the other spouse, and that a spouse who does so will be solely liable for any liabilities so incurred (at [67]). While the Wife claims that she took the loan from Ethoz Capital in order to cope with mortgage payments, the Husband contends that there is no evidence to support this assertion,[49] and suggests that

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47 Wife's affidavit for ancillary matters, 27 February 2018, para 8; Letters from Wife's counsel at Husband's 3rd affidavit of assets and means, pp 238–249.

48 Wife's affidavit for ancillary matters, 27 February 2018, p 73.

49 Husband's 21 August 2018 amended written submissions, para 47.

the Wife has not shown that this fresh liability was incurred for the joint benefit of the parties.

55 In assessing whether, and to what extent, the proceeds of the Bedok North and Woodleigh Properties ought to be included in the matrimonial pool, I am guided by the following considerations:

56 First, as established by the Court of Appeal in *TNL v TNK and another appeal and another matter* [2017] 1 SLR 609 ("*TNL v TNK*") at [24], if one spouse expends a substantial sum of money in the period when divorce proceedings are imminent, or after interim judgment is granted but before ancillary matters are concluded, such sums must be returned to the asset pool if the other spouse is considered to have at least a putative interest in that sum of money and has not consented to the expenditure. This applies regardless of whether the expenditure was a deliberate attempt to dissipate matrimonial assets or was for the benefit of the children or other relatives. In that case, the parties had sold a jointly-owned apartment when divorce proceedings were already imminent. The husband claimed he had used part of the sale proceeds to buy a car for the parties' son, to repay a car loan, to help the parties' son to purchase a HDB flat, to loan money to a friend and to buy shares in a friend's name. The Court of Appeal held that the entire sale proceeds should be returned to the asset pool. The wife had not only a putative interest but an actual interest in the proceeds from the sale of the apartment (since she was a joint owner of the apartment) and as she had not consented to the husband's expenditure, the husband should bear these expenditures personally and in full (at [23]–[25]).

57 Secondly, the decision of the Court of Appeal in *Wan Lai Cheng* suggests that it may be acceptable for a party to incur fresh liabilities on matrimonial assets after the commencement of divorce proceedings *if* such

liabilities are incurred for the benefit of both spouses (at [68] *per* Andrew Phang Boon Leong JA). In *Wan Lai Cheng*, the court found that the liabilities incurred on certain matrimonial properties had increased significantly since the wife had filed for divorce. Since the husband had never suggested that these liabilities were incurred for the benefit of both parties, the court was entitled to infer that they had been incurred for the sole benefit of the husband, and that those liabilities should therefore be disregarded for the purposes of determining the net value of these properties. (at [68]). This suggests that if the court *had* been satisfied that the liabilities were incurred for the parties' joint benefit, it might have been prepared to take these fresh liabilities into account in ascertaining the value of the matrimonial assets.

58 Drawing the principles from these two authorities together, upon the commencement of divorce proceedings, if a party comes into funds in which the other party has a putative interest, that party ought to seek the other party's consent before any expenditure of a substantial sum, failing which that party may be required to bear that payment personally by returning the sum to the asset pool. There is nothing to suggest that the Court of Appeal's remarks in *TNL v TNK* at [24] are inapplicable when the intended expenditure is the payment of some existing liability which would ultimately be to the benefit of both parties (such as, for instance, if the Wife used the proceeds of the Bedok North Property to pay the mortgage on another of the matrimonial properties). Even in such a situation, it is necessary for the party intending to expend the sum to obtain the other party's consent. Nevertheless, if the party who has *not* obtained prior consent is able to prove that the sum in question was applied for the parties' *joint benefit* in the sense that it was used to pay off an existing liability which would otherwise have been deductible against the matrimonial assets, then the party which expended the sum in question may not be required

to bear this cost personally, and will not be required to return the sum so expended to the asset pool.

59 Applying this reasoning to the present facts, I was of the view that the Wife ought to have kept the Husband apprised of any sale of her assets; and having received the proceeds from such sale, she ought to have sought the Husband's consent before expending any substantial sum. Nevertheless, if there is sufficient evidence to support a finding that the Wife applied the proceeds towards mortgage payments on her properties (which form part of the matrimonial assets), it would not be fair to require the Wife to restore these sums to the pool of assets. This is especially so given that the net values of the various matrimonial properties are obtained by deducting the *outstanding mortgage liability as at the AM Date* from the gross value. If, however, there is *insufficient* evidence that any sum was applied towards such liabilities, then the Wife ought to be required to restore these sums to the asset pool.

60 Of the Bedok North Property proceeds, I was satisfied, and the Husband appears to accept, that the Wife had applied $8,858.70 towards the payment of mortgage instalments for the Telok Kurau Property and Robertson Quay Properties A and B, while a further $20,220 was used to make a payment to Hong Leong Finance for capital repayment of the mortgage on the Telok Kurau Property.[50] These sums should be deducted from the sale proceeds of the Bedok North Property to be included in the pool of matrimonial assets. As for the remainder of the sales proceeds, the Wife claims that she used them to inject working capital into her companies and to pay off her credit card loans and

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[50] Husband's 3rd affidavit of assets and means, 27 February 2018, para 112 and, pp 242 (para (g)) and 249 (items 11–13 and 27).

income taxes. Applying *TNL v TNK* at [24], these sums ought to be returned to the asset pool because they were expended without the Husband's consent. In any event, the Wife has quantified her liabilities (as reflected in her ancillary matters facts and position sheet and in her submissions) *as at IJ Date* and this includes her existing credit card loans as at that date.[51] As will be seen, the pool of matrimonial assets is being valued by deducting the Wife's liabilities (frozen as at the time of the commencement of divorce proceedings) from the total value of the assets (see [83] below). Those liabilities would essentially be double-counted if the court were then to *also* exclude whatever value of the Bedok North Property sales proceeds that have been applied to *discharge* those liabilities.

61 As for the Husband's claim that because a cheque of $51,146 was drawn in favour of the Wife's real estate agency, this must mean that this sum was eventually given to the Wife as the real estate salesperson, I do not think there is sufficient evidence to support such an inference. Thus, I find that the net value of the Bedok North Property is $1,867,587.46 less the sums which were applied towards mortgage payments ($8,858.70 and $20,220), which yields a figure of $1,838,508.76.

62 With regard to the Woodleigh Property, $864,060.05 out of the total proceeds of $1,188,888 were applied towards the repayment of a $960,000 loan from Ethoz Capital taken out against the Woodleigh Property on 31 October 2016. The question is whether this loan was incurred for the Wife's "sole benefit", in which case the Wife ought to be required to restore the sum of

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[51] Wife's ancillary matters facts and position sheet, pp 18–19; Wife's 14 May 2018 written submissions, para 75 (see "Less Liabilities").

$864,060.05 to the pool of matrimonial assets. If, on the other hand, I accept the Wife's argument that she used the loan to pay for the mortgages on her properties, then this loan would have been for the parties "joint benefit" in that it has improved the overall net value of the assets in the matrimonial pool.

63 The Husband contends that the Wife has not adduced any evidence to show that the loan of $960,000 from Ethoz Capital was applied towards mortgage payments, as the Wife claims. In my view, however, there is sufficient evidence to indicate, on a balance of probabilities, that the loan was applied in this manner. First, on a comparison of the Wife's outstanding liabilities against her various properties between the IJ Date and the AM Date, the Wife reduced her total mortgage liabilities from $15,092,986.03 to $13,774,557.87.[52] This was a reduction of about $1.32m. It is not entirely clear what source of funds the Wife used to fund these mortgage payments. However, the Wife has adduced an accountant's report which suggests that as of 31 August 2016, her total annual rental income was about $527,000,[53] which suggests that she could not have relied on such rental income alone to fund her mortgage payments. The accountant's report also supports the Wife's claim that generally, she was having a difficult time meeting her monthly financial obligations.[54] On balance, it is more likely than not that the loan taken from Ethoz was applied towards the Wife's various mortgage payments. I therefore find that the net value of the Woodleigh Property is $249,294.92 (see [54] above).

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52 H-3.

53 Affidavit of Soo Choon Kiat, 22 November 2017, p 11.

54 Affidavit of Soo Choon Kiat, 22 November 2017, p 7.

64 However, as noted at [20] above, the court should not take the whole value of these assets as being included in the pool, but only that part of the acquisition that coincides with the period of the marriage (*UJF v UJG* at [62]). The value to be included in the matrimonial pool for each of these assets will be discussed at [75] and [78] below.

OTHER PRE-MARRIAGE PROPERTIES

65 The Husband obtained valuation reports from Allied in respect of the Compassvale Property, Telok Blangah Properties A and B, and the Marina Boulevard Property. The Wife's valuation reports by Premas valued these properties as at the IJ Date. As mentioned earlier, the Wife later adduced updated "valuations" of these properties in the form of a Whatsapp message from Premas personnel. For the same reasons discussed at [45] above, I consider it appropriate to adopt the values proffered by Allied for the properties in respect of which the Husband has obtained valuation reports. I set out these properties and their respective values in the following table:

| **Property** | **Allied's valuation ($)**[55] |
|---|---|
| Telok Blangah Property A | 1,500,000 |
| Telok Blangah Property B | 1,500,000 |
| The Compassvale Property | 1,200,000 |

66 As for the Robertson Quay Properties, Premas's updated valuations suggest that Roberson Quay Property A is worth $1,300,000 while Robertson Quay Property B is worth $1,150,000 as at the AM Date. The Husband values Roberson Quay Property A at $1,410,626.22 and Robertson Quay Property B at $1,244,896.91. These valuations are based on the listing of a similar property

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55 Husband's 21 August 2018 amended written submissions, paras 75 and 82.

on www.commercialguru.com. For the reasons discussed at [48] above, I consider that the asking prices listed on this website are not an accurate indication of the market value as it is unclear whether any buyer would actually purchase the property in question at the listed price. Adopting a similar approach as that described in [48] above, I consider it appropriate to gauge the market value of these properties by applying a 10% uplift to Premas's figures. Thus, the values of Robertson Quay Properties A and B are $1,430,000 and $1,265,000 respectively.

67 As for the Marina Boulevard Property, there is only a slight difference between Premas's valuation of the property as at the AM Date ($1,950,000) and the Husband's proffered valuation of $2,000,000 which is based on an Urban Redevelopment Authority Caveat Listing dated December 2017 showing that an apartment unit in the same development sold for a price of $27,011 per square metre. A closer look at the document cited by the Husband, however, shows that many of the other units sold in December 2017 transacted at a much lower price on a per-square-metre basis.[56] In the circumstances, I prefer to adopt Premas's valuation of $1,950,000.

68 Finally, in respect of the Leedon Property, the Husband accepts the Wife's valuation of $950,000, and I shall, therefore, also adopt this figure.

69 To summarise, the table below sets out the net value of the Pre-Marriage Properties.

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[56] H-3

| **Property** | **Gross value ($)** | **Outstanding liabilities as at AM Date**[57] | **Net Value** |
|---|---|---|---|
| Telok Blangah Property A | 1,500,000.00 | 549,455.48 | 950,544.52 |
| Telok Blangah Property B | 1,500,000.00 | 472,125.39 | 1,027,874.61 |
| Compassvale Property | 1,200,000.00 | 415,916.57 | 784,083.43 |
| Marina Boulevard Property | 1,950,000.00 | 1,229,407.30 | 720,592.70 |
| Robertson Quay Property A | 1,430,000.00 | 422,286.50 | 1,007,713.50 |
| Robertson Quay Property B | 1,265,000.00 | 511,550.37 | 753,449.63 |
| Leedon Property | 950,000.00 | 562,136.31 | 387,863.69 |
| Bedok North Property | - | - | 1,838,509.00 |
| Woodleigh Property | - | - | 249,294.92 |

PRE-MARRIAGE PROPERTIES: VALUE TO BE INCLUDED IN ASSET POOL

70 As noted above, it is not the full value of the Pre-Marriage Properties which should be included in the pool of matrimonial assets, but only a portion representing the extent of acquisition during the marriage (see *UJF v UJG* at [123] and *BHN v BHO* at [36] and [41]). The method which the court uses to determine this portion will depend on the available evidence. In *UJF v UJG* at [123], Aedit Abdullah J explained his approach to ascertaining the portion of the asset values which represented the parties' acquisition of that asset during the marriage, in the following terms:

> …[W]here the acquisition during marriage is part of a transaction dating from before the marriage, only a pro-rata portion should be taken as part of the distributable value…**Since there is *no clear evidence on how much exactly was paid during the course of marriage for this***

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57 Husband's 21 August 2018 amended written submission, paras 58, 62, 63, 67, 74, 55 and 69 (in respective order as listed in the table below).

> ***latter category of properties***, I have just taken the contribution of the parties to be proportional to the increase in value of the assets and, in the absence of any other evidence, used that to determine the respective contributions out of the whole pool. [emphasis added]

71 In *BHN v BHO*, the plaintiff wife had purchased an apartment unit before the marriage, but had continued to service the housing loan through her CPF contributions during the marriage. Belinda Ang J sought to ascertain "what portion of [the apartment's] present value…should be considered a matrimonial asset" (at [41]). However, the plaintiff had only furnished the court with evidence of her *total* amount of CPF contributions which were used for the purchase of the apartment from the time of purchase. The court had no information as to the original purchase price of the apartment, and how much was in the plaintiff's CPF account prior to the marriage (which would have allowed the court to determine the exact amount of CPF contribution during the marriage). Given these limitations, Ang J found that the plaintiff's total CPF contributions towards the purchase of the property could be used as the *minimum* figure to be attributed notionally to the pool of matrimonial assets. She noted, however, that *in reality* a higher amount probably represented the plaintiff's contributions during the marriage, because the property had increased in value (at [41]). These authorities demonstrate that the formula which the court adopts will depend on the information which is available in respect of the property in question.

72 In the present case, the aim is to determine what portion of the net value of each property as at the AM Date (*ie*, the market price less outstanding liabilities) was acquired through the Wife's mortgage payments during the marriage. Expressed as a fraction, the proportion of the net value of each property which was acquired during the marriage may be stated as follows:

$$\frac{x}{y} \times N$$

*Where x = amount paid towards acquisition of each property during the marriage (*ie*, between the date of the marriage and the IJ Date),*
*y = total amount paid towards acquisition of each property as at the AM Date, and N = net value of the property (*ie*, market value less outstanding liabilities) as at the AM Date.*

73 For Telok Blangah Property A, Telok Blangah Property B, and Robertson Quay Property A, it is possible to obtain *x*, the absolute amount which the Wife paid towards each property during the course of the marriage, by deducting the outstanding loan as at the IJ Date from the outstanding loan as of the date of the marriage. To obtain *y*, the total amount which was paid towards the acquisition of each property as at the AM Date, the outstanding liabilities as at the AM Date may be deducted from the purchase price. This fraction *x* over *y*, expressed as a percentage, is the percentage of the net value of each property which should be attributed to the pool of matrimonial assets. On this basis, the value of Telok Blangah Properties A and B and Robertson Quay Property A which is subject to division is as follows:

| **Property** | **Amount to be attributed to pool of matrimonial assets** |
|---|---|
| Telok Blangah Property A | Original purchase price:[58] $900,000<br><br>Amount paid for during marriage:[59]<br>$714,206.99 — $585,387.33 = $128,819.66<br><br>Total amount paid towards acquisition of asset as at AM Date = $900,000 — $549,455.48 = $350,544.52 |

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58 Wife's 23 March 2017 affidavit, p 1057.

59 H-3

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|---|---|
| | % of net value of asset which was acquired during marriage: $\frac{128{,}819.66}{350{,}544.52} \times 100\% = 36.75\%$<br><br>Amount to be attributed to pool: 36.75% of net value of $950,544.42 = $349,325.11. |
| Telok Blangah Property B | Original purchase price: [60] $889,000<br><br>Amount paid for during marriage:[61]<br>$674,122.48 — $521,953.41 = $152,169.07<br><br>Total amount paid towards acquisition of asset as at AM Date<br>= $889,000 — $472,125.39 = $416,874.61<br><br>% of net value of asset paid for during marriage: $\frac{152{,}169.07}{416{,}874.61} \times 100\% = 36.50\%$<br><br>Amount to be attributed to pool: 36.50% of net value of $1,027,874.61 = $375,174.23 |
| Robertson Quay Property A | Original purchase price: [62] $700,000<br><br>Amount paid for during marriage:[63]<br>$557,693.00 — $450,211.57 = $107,481.43<br><br>Total amount paid towards acquisition of asset as at AM Date =<br>$700,000 — $422,286.50 = $277,713.50<br><br>% of net value of asset paid for during marriage: $\frac{107{,}481.43}{277{,}713.50} \times 100\% = 38.70\%$ |

60 Wife's 23 March 2017 affidavit, p 1051.

61 H-3.

62 Wife's 23 March 2017 affidavit, p 919.

63 H-3.

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|---|---|
| | Amount to be attributed to pool: 38.70% of net value of $1,007,713.50 = $389,985.12 |

74 With respect to the Leedon Property, there is no information before the court as to the total outstanding liabilities on this property as at the date of the marriage. However, the Wife appears to have taken out a housing loan of $632,280 for this property sometime around November 2011.[64] In the absence of evidence as to how much, if any, the Wife paid towards the acquisition of the property between the marriage in February 2011 and the date on which the housing loan was first disbursed in November 2011, I shall simply assume that apart from the housing loan of $632,280, the remainder of the purchase price was paid for before the marriage. On this basis, the value of the Leedon Property which is subject to division is calculated as follows:

| | |
|---|---|
| Leedon Property | Original purchase price:[65] $890,400<br><br>Amount paid for during marriage (housing loan from OCBC taken around November 2011):[66]<br>$623,280 — $596,323.13 = $26,956.87<br><br>Total amount paid towards acquisition of asset as at AM Date<br>= $890,400 — $562,136.31 = $328,263.69<br><br>% of net value of asset paid for during marriage:<br>$\frac{26{,}956.87}{328{,}263.69} \times 100\% = 8.21\%$<br><br>Amount to be attributed to pool: 8.21% of net value of $387,863.69 = $31,843.61 |

64 Wife's 11 April 2018 affidavit, pp 5–6 and 33.

65 Wife's 23 March 2017 affidavit, p 1107.

66 Wife's 11 April 2018 affidavit, pp 5–6 and 33.

75 As the Bedok North Property was sold in July 2017 (see [52] above), the formula used above must be modified slightly. The amount which the Wife paid towards the acquisition of this property, *x*, is still to be derived by deducting the outstanding loan as at the IJ Date from the outstanding loan as of the date of the marriage. However, the total amount which was paid towards the acquisition of this property, *y*, is derived by deducting the outstanding liabilities as of the time of sale (July 2017) from the original purchase price. I assume that the sum of $442,299.80 which was paid to the mortgagee bank (see [52] above) represented the outstanding liabilities as at the time of the sale. Thus, the portion of the Bedok North Property proceeds which is subject to division may be calculated as follows:

| | |
|---|---|
| Bedok North Property | Original purchase price:[67] $800,000<br><br>Amount paid for during marriage:[68]<br>$581,345.35 — $455,315.80 = $126,029.55<br><br>Total amount paid to acquire asset as at time of sale:<br>$800,000 — $442,299.80 = $357,700.20<br><br>% of net value of asset paid for during marriage:<br>$\frac{126{,}029.55}{357{,}700.20} \times 100\% = 35.23\%$<br><br>Amount to be attributed to pool: 35.23% of net value of $1,838,509 = $647,706.72. |

76 The following Pre-Marriage Properties have been omitted from the analysis so far: the Marina Boulevard Property, the Woodleigh Property, Robertson Quay Property B and the Compassvale Property. I shall, in the

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67 Wife's 23 March 2017 affidavit, p 1045.

68 H-3

following paragraphs, explain the deficiencies in the evidence with regard to each of these properties and why I have adopted a different approach to quantifying what portion of the asset should be included in the pool of matrimonial assets.

77 With regard to the Marina Boulevard Property, the difficulty is that there is no evidence as to its original purchase price, and therefore no means by which the court can discern how much was paid towards the acquisition of the asset as at the AM Date. The Wife has disclosed what appears to be an offer to purchase in respect of the Marina Boulevard Property,[69] but oddly, it does not state the purchase price. It is nevertheless necessary for the court to come to some estimate of the value to be included in the matrimonial pool, using the available evidence. Based on a comparison between the outstanding liabilities as at the date of the marriage and the IJ Date, I conclude that mortgage payments of $402,312.23 were made during the marriage.[70] Assuming that the Wife made these payments, and assuming the purchase price of the property was the same as its current gross value of $1,950,000, the total amount which was paid towards the acquisition of this asset may be derived by deducting the outstanding liabilities as at the AM date from this notional purchase price. On this basis, the value of the Marina Boulevard Property which is subject to division is calculated as follows:

| | |
|---|---|
| Marina Boulevard Property | Original purchase price (assumed): $1,950,000 |

69 Wife's 23 March 2017 affidavit, p 1112.

70 H-3.

| | |
|---|---|
| | Amount paid for during marriage:[71]<br>$1,723,999.99 — $1,321,687.76 = $402,312.23<br><br>Total amount paid towards acquisition of asset as at AM Date:<br>$1,950,000 — $1,229,407.30 = $720,592.70<br><br>% of net value of asset paid for during marriage:<br>$\frac{402{,}312.23}{720{,}592.70} \times 100\% = 55.83\%$<br><br>Amount to be attributed to pool: $\frac{1}{3}$ of 55.83% of net value of $720,592.70 (since the Wife has a one-third share in this property) = $134,102.30 |

78 With regard to the Woodleigh Property, it is simply not possible to apply the method which I have used thus far with regard to the other Pre-Marriage Properties, because there is neither any evidence as to the original purchase price, nor any evidence as to when the Wife purchased the property, nor any evidence as to the outstanding mortgage property on the date of the marriage. The analysis is further complicated by the fact that the Wife took out a fresh loan of $960,000 from Ethoz Capital (see [54] above) in October 2016, which was after the IJ Date. Given these difficulties, I shall adopt the approach which was taken by Ang J in *BHN v BHO* at [41] (see [71] above), which was essentially to take the absolute amount which was paid towards the acquisition of the property, and use this as the figure which should be attributed notionally to the pool of matrimonial assets. This is on the basis that if the Wife had not paid these amounts towards the acquisition of the Woodleigh Property, they would have remained in her bank accounts and would have been subject to

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[71] H-3

division. I gather that in September 2016, the Wife was making monthly mortgage payments of about $2,931 on this property.[72] Assuming that she made similar payments throughout the marriage (which lasted about five years and seven months), she would have paid a total of $196,377 ($2,931 × 67 months) towards the acquisition of this property in the course of the marriage. This, then, is the amount to be included in the pool of matrimonial assets for division in respect of the Woodleigh Property.

79 With regard to Robertson Quay Property B, it is not possible to determine the total amount which was paid towards the acquisition of the asset as of the AM Date by deducting the outstanding liabilities as at the AM Date from the original purchase price. This is because fresh liabilities were incurred against this asset after the IJ Date, as can be seen from the fact that outstanding liabilities against this property increased from $200,812.70 as at the IJ Date to $511,550.37 as at the AM Date.[73] Again, adopting the approach taken by Ang J in *BHN v BHO* at [41], I shall take the absolute amount which was paid towards the acquisition of the property, and use this as the figure which should be attributed notionally to the pool of matrimonial assets. Deducting the outstanding liabilities as at the IJ Date from the outstanding liabilities as at the time of the marriage, I conclude that the Wife paid a total of $53,439.16 in mortgage instalments on this property during the marriage. This, then, is the amount to be included in the pool of matrimonial assets for division in respect of Robertson Quay Property B.

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72 Wife's 1 December 2016 affidavit, pp 328–329.

73 H-3.

80 Finally, with regard to the Compassvale Property, it is not possible to determine the total amount which was paid towards the acquisition of the asset during the marriage by deducting the outstanding liabilities as at the IJ Date from the outstanding liabilities as at the date of the marriage. This is because fresh liabilities were incurred against this property during the marriage, when the Wife took a loan against the Compassvale Property sometime around July 2015.[74] It is clear that from July 2015 to the present, the Wife has been making monthly loan repayments of at least $13,416.67 to repay this fresh loan. However, there is no evidence as to how much the Wife expended to repay the loan which she *initially* took out to purchase the Compassvale Property between February 2011 and July 2015. Nevertheless, I gather that in the approximately 16-month period between the time the Wife signed the option to purchase in respect of this property on 19 September 2009 and the date of the marriage in February 2011, the Wife paid some $113,028.75 for the property (this being the purchase price of $488,000 less $374,971.25 in outstanding liabilities as at the date of the marriage).[75] Assuming that this sum of $113,028.75 included a payment of $96,000 (20% of the purchase price) which she was required to pay upon signing the Sale and Purchase Agreement,[76] and the remaining $17,028.75 was paid in the form of 16 monthly mortgage instalments, she would have been paying monthly mortgage instalments of about $1,064.30 in respect of the Compassvale Property. Assuming she continued paying such mortgage instalments after the parties married until she took a fresh loan against the Compassvale Property in July 2015, the total amount which the Wife would

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74 Wife's 22 November 2017 affidavit, p 661.

75 H-3

76 Wife's 23 March 2017 affidavit, p 1071.

have paid towards the acquisition of the Compassvale Property between the date of the marriage and the IJ Date may be estimated as follows:

(a) $1,064.30 × 52 months (between 23 February 2011 and June 2015)

(b) $13,461.67 × 15 months (between July 2015 and 30 September 2016)

Total: $257,268.65

Applying the approach in *BHN v BHO* at [41], the figure to be included notionally in the pool of assets is this sum of $257,268.65, which is the court's estimate of the amount which the Wife paid towards the acquisition of the Compassvale Property during the marriage.

SUMMARY OF CONCLUSIONS AS TO VALUE OF WIFE'S REAL PROPERTIES

81 To summarise, the following table sets out the values to be included in the pool of matrimonial assets in respect of each of the Wife's real properties:

| | **Property** | **Value to be included in matrimonial pool ($)** |
|---|---|---|
| *Matrimonial home* | | |
| 1. | Sunrise Close Property | 2,069,100.51 |
| | *Properties purchased after marriage* | |
| 2. | Bukit Batok Property A | 1,230,205.47 |
| 3. | Bukit Batok Property B | 1,100,992.50 |
| 4. | Alexandra Property A | 85,707.13 |
| 5. | Alexandra Property B | 1,921,578.31 |
| 6. | Telok Kurau Property | 454,983.69 |
| 7. | Changi Road Property | 307,982.44 |
| 8. | Fraser Street Property | 454,887.95 |
| *Properties purchased before marriage but paid for during marriage* | | |
| 9. | Telok Blangah Property A | 349,325.11 |

| | | |
|---|---|---|
| 10. | Telok Blangah Property B | 375,174.23 |
| 11. | Compassvale Property | 257,268.65 |
| 12. | Robertson Quay Property A | 389,985.12 |
| 13. | Robertson Quay Property B | 53,439.16 |
| 14. | Bedok North Property | 647,706.72 |
| 15. | Leedon Property | 31,843.61 |
| 16. | Marina Boulevard Property | 134,102.30 |
| 17. | Woodleigh Property | 196,377.00 |

***Liabilities***

82 It is common ground between the parties that the Husband has $20,290.89 worth of liabilities in the form of outstanding loans from DBS Cashline and Great Eastern Life Assurance.[77] The liabilities which are disputed between the parties are the following:

(a) The Wife's liabilities of $1,582,426 in the form of credit card loans and loans on her insurance policies;

(b) A loan of $20,000 which the Husband claims to have taken from his brother.

83 I shall deal first with the Wife's credit card and insurance policy loans. The remarks in the JSRI show that the Husband disputes these liabilities on the basis that all liabilities arising once divorce proceedings are afoot should not be taken into account unless they were legitimately incurred for the benefit of the family (see the discussion of [67] of *Wan Lai Cheng* at [54] above).[78] While I agree with this as a matter of principle, as a matter of fact, it is incorrect to say that the Wife's credit card loans and insurance policies were all incurred "once

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77 JSRI, p 15; Husband's 21 August 2018 amended written submissions, para 91.

78 JSRI, p 19.

divorce proceedings [were] afoot". On the contrary, the Husband's *own position* is that only $140,400 of the Wife's personal loans were newly incurred between April 2016 (when the Wife evicted the Husband from the matrimonial home and initiated the divorce proceedings) and September 2016.[79] Of this $140,400 worth of newly incurred liabilities, I agree with the Husband that it has not been demonstrated that these were incurred otherwise than for the Wife's sole benefit. I thus do not take these liabilities into account. As for the remaining $1,442,026 ($1,582,426 - $140,400) worth of liabilities, I see no reason why they should not be taken into consideration in determining the pool of matrimonial assets.

84 Turning then to the loan of $20,000 which the Husband claims to have taken from his brother, there was a lack of evidence to support the Husband's position. At the final ancillary matters hearing on 21 August 2018, the Husband sought to adduce new evidence in the form of a letter from his brother confirming this loan. I considered that the Husband had numerous opportunities to obtain an affidavit from his brother and had not done so. Given the late stage of the proceedings, and the manner in which this evidence was sought to be introduced, I did not think it was appropriate to admit this letter into evidence. There being no other evidence to support the Husband's claim that he had taken this loan from his brother, I do not take this alleged liability into account in determining the pool of matrimonial assets.

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[79] Husband's 21 August 2018 amended written submissions, para 175; Husband's 3rd affidavit of assets and means, 27 February 2018, para 133 and p 125.

***Total pool of matrimonial assets***

85 The following table summarises the matrimonial assets and liabilities based on my findings thus far:

| | **Asset (Liability)** | **Value ($)** |
|---|---|---|
| | ***In Wife's Name*** | |
| 1. | Sunrise Close Property | 2,069,100.51 |
| 2. | Bukit Batok Property A | 1,230,205.47 |
| 3. | Bukit Batok Property B | 1,100,992.50 |
| 4. | Alexandra Property A | 85,707.13 |
| 5. | Alexandra Property B | 1,921,578.31 |
| 6. | Telok Kurau Property | 454,983.69 |
| 7. | Changi Road Property | 307,982.44 |
| 8. | Fraser Street Property | 454,887.95 |
| 9. | Telok Blangah Property A | 349,325.11 |
| 10. | Telok Blangah Property B | 375,174.23 |
| 11. | Compassvale Property | 257,268.65 |
| 12. | Robertson Quay Property A | 389,985.12 |
| 13. | Robertson Quay Property B | 53,439.16 |
| 14. | Bedok North Property | 647,706.72 |
| 15. | Leedon Property | 31,843.61 |
| 16. | Marina Boulevard Property | 134,102.30 |
| 17. | Woodleigh Property | 196,377.00 |
| 18. | CPF account | 161,088.48 |
| 19. | Unit Trusts | 13,627.65 |
| 20. | Moneys held by Husband's counsel as stakeholders in relation to the forfeiture of a property at Fraser Street, including refund of stamp duty from IRAS | 219,422.02 |
| 21. | Motor Vehicle | 73,000 |
| 22. | Shares | 293,471.08 |
| 23. | Bank accounts | 98,858.48 |
| 24. | Liabilities | (1,442,026) |
| ***Sub-total for assets in Wife's name*** | | 9,478,101.61 |
| | ***In Husband's Name*** | |
| 1. | CPF account | 51,544.85 |
| 2. | POSB bank account ("POSB Bank Account A") | 50,822.24 |
| 3. | Insurance policies | 6,174.45 |
| 4. | Shares | 16,205.00 |

| | | |
|---|---|---|
| 5. | Bank accounts in Husband's sole name | 44,202.37 |
| 6. | DBS Cashline and Great Eastern Life Assurance loans | (20,290.89) |
| ***Sub-total for assets in Husband's name*** | | 148,658.02 |
| | **Grand Total** | 9,626,759.63 |

***Ratio of division***

86 It is not in dispute between the parties that this was a dual-income marriage in respect of which the applicable framework for division is that set out in *ANJ v ANK* [2015] 4 SLR 1043. As summarised by the Court of Appeal in *Twiss Christopher James Hans v Twiss Yvonne Prendergast* [2015] SGCA 52 at [17], this approach involves three broad steps:

(a) First, the court expresses as a ratio the parties' direct contributions relative to each other, having regard to the amount of financial contributions each party has made towards the acquisition or improvement of matrimonial assets;

(b) Secondly, the court expresses as a second ratio the parties' indirect contributions relative to each other, having regard to both financial and non-financial contributions; and

(c) Thirdly, the court derives the parties' overall contributions relative to each other by taking an average of the two ratios in (a) and (b) above, bearing in mind that the direct and indirect contributions may not be accorded equal weight and one of the two ratios may be accorded more significance than the other.

*Timeframe for assessing the parties' contributions*

87 Before I turn to the application of this framework to the facts of this case, I first address the question of the timeframe in which the parties' respective contributions should be considered. As noted above, the parties were cohabiting for a period of 11 years before they married. The Husband takes the position that his contributions during that period ought properly to be considered in determining the just and equitable division of the parties' assets.[80] The Wife takes the position that the court should only take into account contributions made during the subsistence of the marriage.[81]

88 The question of whether pre-marital contributions may be taken into consideration in the court's division of matrimonial assets was considered by Valerie Thean JC (as she then was) in *JAF v JAE* [2016] 3 SLR 717 at [20]–[21]. In that case, prior to the parties' marriage, the wife had purchased a property in Poland which was held in her sole name. The husband had contributed a sum of about £15,000 towards the purchase. Thean JC found that the property was not a matrimonial asset because it was not "ordinarily used or enjoyed" by the parties within the meaning of s 112(10)(a)(*i*) of the Women's Charter. The husband also had not sought to argue that the property had been substantially improved within the meaning of s 112(10)(a)(*ii*). Nevertheless, in analysing the extent of each party's contribution to the marriage, Thean JC was of the view that the husband's contribution of £15,000 towards the purchase of the property in Poland could be taken into account notwithstanding the fact that such contribution was made before the marriage. This was on the basis that

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80 Husband's 26 July 2018 written submissions, paras 6 and 13–16.

81 Wife's 14 May 2018 written submissions, paras 81–84.

s 112 of the Women's Charter required the court to have regard to "all the circumstances of the case" and specifically, s 112(2)(*g*) required the court to have regard to "the giving of assistance or support by one party to the other party" without any restriction as to time period (at [20]). Thean JC was satisfied that the husband's contribution to the purchase of the Poland property had been made at a time when the parties were already in a "domestic relationship", and that this property had functioned as a platform from which the parties built their lives together (at [22]).

89 Thean JC also noted that pre-marital contributions had been taken into account in the decision of *Smith Brian Walker v Foo Moo Chye* [2009] SGDC 256 ("*Smith Brian Walker (DC)*"), and this, in turn, was upheld by the High Court in *Smith Brian Walker v Foo Moo Chye Julie* [2009] SGHC 247 ("*Smith Brian Walker (HC)*"). In *Smith Brian Walker (DC)* and *Smith Brian Walker (HC)*, the parties had cohabited for a period of sixteen years before they married. A few years before the marriage, the wife had helped the husband to secure a lucrative consultancy project which appears to have placed the husband in good stead in subsequent employment. District Judge Tan Peck Cheng found that this was the wife's most significant contribution to the marriage, notwithstanding the fact that it had been made prior to the marriage. On appeal, Steven Chong JC (as he then was) cited this as his reason for adjusting the wife's share of the matrimonial assets upwards (*Smith Brian Walker (HC)* at [13] and [17(d)]).

90 The question of whether pre-marital contributions are relevant in the division of matrimonial assets was also considered by George Wei JC in *ACY v ACZ* [2014] 2 SLR 1320 ("*ACY v ACZ*"), although Wei JC did not express a definitive view on the matter. Finally, I note that in *UIG v UIH* [2017] SGFC 149 ("*UIG v UIH*"), District Judge Masayu Norashikin felt that it was "apt for contributions even prior to the marriage to be factored in" because the parties in

that case "were living together even before marriage" and had made indirect contributions to the family during this period.

91 As against the above line of authorities, in *UJF v UJG,* Aedit Abdullah J found that pre-marital circumstances should not be taken into consideration in the court's exercise of its discretion under s 112 of the Women's Charter. The facts of that case were similar to the present case: the parties had cohabited for over a decade before they married, then divorced after a four-year marriage. Abdullah J held that "the fact that the parties were in a relationship that lasted for many years could not be a relevant factor given the scope of the legislative provision which is concerned only with factors relating to the period of marriage" (at [54]).

92 Having regard to the language of s 112 of the Women's Charter, I am in agreement with the views taken in authorities such as *JAF v JAE*, *Smith Brian Walker (DC)* and *(HC)* and *UIG v UIH* that pre-marital contributions may be a relevant factor in determining the just and equitable division of matrimonial assets. On one hand, the assets which are the *subject of* the court's powers of division (*ie*, matrimonial assets) are defined with reference to clear time boundaries under s 112(10)(*a*) and (*b*), which refer to assets in terms of whether they were acquired before or during the marriage. On the other hand, the *factors* to be taken into account in determining the appropriate apportionment of the assets are not limited to the period of marriage. Thus, for instance, s 112(2)(*d*) refers to the "extent of the contributions made by each party to the welfare of the family" while s 112(2)(*g*) refers to "the giving of assistance or support by one party to the other party", also without restriction as to time period (as noted in *JAF v JAE* at [20]). In this case, the parties have cohabited and shared their lives together for a significant period of time before the marriage. In the

circumstances, I did not think it would be appropriate to entirely disregard the contributions which they have made to their shared lives in this period.

*Direct contributions*

93 The parties are in broad agreement that direct contributions towards the acquisition or improvement of matrimonial properties were mostly attributable to the Wife. However, the Husband claims that he made the following direct contributions:

(a) A contribution of $58,000 towards the Wife's purchase of a flat in Ang Mo Kio ("the Ang Mo Kio Flat") in 2001 which was then sold in 2004. The Husband claims that this purchase "provided the catalyst, platform and seed money" for the Wife's subsequent property investments.[82]

(b) A contribution of $45,000 for the construction and design of a koi pond at the matrimonial property,[83] as well as further quarterly payments of $500 towards the maintenance of this pond.

(c) A contribution of $91,536 of his CPF savings which the Husband allegedly paid to the Wife in December 2007. The Husband claims that the Wife used this money to renovate the matrimonial home.[84]

94 The Wife's response to the Husband's claim is as follows:

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82 Husband's 21 August 2018 amended written submissions, paras 106–108.

83 Husband's 21 August 2018 amended written submissions, paras 111–113.

84 Husband's 21 August 2018 amended written submissions, para 118.

(a) The Husband's payment of $58,000 in 2001 was actually consideration for the Wife allowing the Husband to live rent-free in her properties.[85]

(b) The Husband's contribution of $45,000 towards the design and construction of a koi pond at the matrimonial home is unsupported by documentary evidence. While the Wife accepts that the Husband did spend money on refurbishing the koi pond, the koi pond was not an improvement to the matrimonial property but a nuisance.[86]

(c) While she did receive about $91,000 from the Husband in 2007, this money was not applied towards the renovations of the matrimonial home because such renovations only took place in 2010, some three years later. The Wife characterises this transfer instead as payment for the Husband's "rent and living expenses from 2003 to 2007".[87]

95 I had serious doubts about the Wife's claim that the payments of $58,000 and $91,536 made by the Husband were intended to pay for his rent and living expenses. It is not in dispute that the parties had cohabited since 1999 and given the nature of their relationship, it seemed unlikely that the Wife was charging the Husband rent at the material time. Since the Wife did not dispute having received these sums, I found that these sums should be counted as the Husband's direct contributions. As for the Husband's claim that he spent $45,000 on the

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85 Wife's 14 May 2018 written submissions, para 90.

86 Wife's 14 May 2018 written submissions, paras 93–98.

87 Wife's 14 May 2018 written submissions, paras 100–103.

design and construction of the koi pond at the matrimonial property, I agreed with the Wife that this was unsubstantiated by documentary evidence.

96 Even taking the sums of $58,000 and $91,536 into account, however, and adding these sums to the value of the assets in the Husband's name, the Husband's total contributions amount to just under $300,000 ($148,658.02 + $58,000 + $91,536). As against this, it is not in dispute that the Wife solely financed her property acquisitions. The following table sets out an estimate of the amounts which the Wife contributed towards the properties in the matrimonial pool (omitting Robertson Quay Property B, the Marina Boulevard Property, the Woodleigh Property and the Compassvale Property):

| | **Asset** | **Contribution** | **Formula used** |
|---|---|---|---|
| 1. | Sunrise Close Property | $462,983.69 | Purchase price ($1,108,000)[88] less outstanding liabilities at AM Date ($645,016.31). |
| 2. | Bukit Batok Property A | $530,205.47 | Purchase price ($1,800,000)[89] less outstanding liabilities at AM Date ($1,269,794.53) |
| 3. | Bukit Batok Property B | $500,992.50 | Purchase price ($1,700,000)[90] less outstanding liabilities at AM Date ($1,199,007.50) |
| 4. | Alexandra Property A | $223,707.13 | Purchase price ($888,000)[91] less outstanding liabilities at AM Date ($664,292.87) |

88 Wife's 23 March 2017 affidavit, p 1026.

89 Wife's 1 December 2016 affidavit, p 197.

90 Wife's 1 December 2016 affidavit, p 203.

91 Wife's 1 December 2016 affidavit, p 181.

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|---|---|---|---|
| 5. | Alexandra Property B | $1,665,578.31 | Purchase price ($5,244,000)[92] less outstanding liabilities at AM Date ($3,578,421.69) |
| 6. | Telok Kurau Property | $349,983.69 | Purchase price ($995,000)[93] less outstanding liabilities at AM Date ($645,016.31) |
| 7. | Changi Road Property | $273,982.44 | Purchase price ($791,000)[94] less outstanding liabilities at AM Date ($517,017.56) |
| 8. | Fraser Street Property | $$454,887.95 | Amount refunded to the Wife by the developer and IRAS upon forfeiture of the property.[95] |
| 9. | Telok Blangah Property A | $350,544.52 | Purchase price ($900,000)[96] less outstanding liabilities at AM Date ($549,455.48) |
| 10. | Telok Blangah Property B | $416,874.61 | Purchase price ($889,000)[97] less outstanding liabilities at AM Date ($472,125.39) |
| 11. | Robertson Quay Property A | $277,713.50 | Purchase price ($700,000)[98] less outstanding liabilities at AM Date ($422,286.50). |

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92 Wife's 1 December 2016 affidavit, p 179.

93 Wife's 23 March 2017 affidavit, p 948.

94 Wife's 1 December 2016 affidavit, p 186.

95 Husband's 21 August 2018 amended written submissions, para 32.

96 Wife's 23 March 2017 affidavit, p 1057.

97 Wife's 23 March 2017 affidavit, p 1051.

98 Wife's 23 March 2017 affidavit, p 918.

| | | | |
|---|---|---|---|
| 12. | Leedon Property | $328,263.69 | Purchase price ($890,400)[99] less outstanding liabilities at AM Date ($562,136.31). |
| 13. | Bedok North Property | $357,700.20 | Purchase price ($800,000)[100] less outstanding liabilities at date of sale ($442,299.80) |
| | **Total Contributions** | $6,193,417.70 | |

97 As a matter of consistency, the method of quantification which I have used in the above table takes into account the Wife's direct contributions towards the acquisition of the Pre-Marriage Properties which were made *before* the parties married (see [92] above). The table above omits Robertson Quay Property B, the Compassvale Property, the Marina Boulevard Property and the Woodleigh Property because for the reasons described at [77]–[80] above, there is insufficient information concerning the original purchase price and therefore insufficient information concerning how much the Wife contributed towards the acquisitions of these assets. Given these limitations, for the purposes of quantifying the Wife's direct contributions, I shall simply adopt the values of these assets which are being included in the pool of matrimonial assets and treat these values as representing the Wife's direct contributions. Thus, the Wife's contribution towards these properties are as stated in the following table:

| | **Asset** | **Contribution** |
|---|---|---|
| 1. | Compassvale Property | $257,268.65 |
| 2. | Robertson Quay Property B | $53,439.16 |
| 3. | Marina Boulevard Property | $134,102.30 |
| 4. | Woodleigh Property | $196,377.00 |
| | **Total Contributions** | $641,187.11 |

[99] Wife's 23 March 2017 affidavit, p 1107.

[100] Wife's 23 March 2017 affidavit, p 1045.

| | |
|---|---|

98 The Wife's total direct contributions towards her real properties alone were thus in excess of $6.80m ($6,193,417.70 + $641,187.11). Taking into account her CPF account ($161,088.48), Unit Trusts ($13,627.65), motor vehicle ($73,000), shares ($293,471.08), and bank accounts ($98,858.48), her direct contributions towards the matrimonial assets are in excess of $7.5m. Given that the Husband's direct contributions are estimated at around $300,000, and adopting a broad-brush approach, I find that the direct contributions ratio for the husband and the wife is 5:95.

*Indirect contributions*

99 The parties' positions regarding their indirect contributions are diametrically opposed. The Husband asserted that the appropriate ratio was 80:20 in his favour, while the Wife's position was that the appropriate ratio was 90:10 in her favour. With regard to indirect non-financial contributions, the main point in dispute is the extent to which the parties had each contributed to the upbringing of the Wife's children from her previous marriage, [P] and [Q]. The parties also disagree over whether the Husband had contributed to the Wife's real estate career. As regards indirect financial contributions, the parties disagree over the extent to which the Husband had contributed to the household expenses.

(1) Indirect non-financial contributions

100 With regard to [P] and [Q], the Husband claims that he was actively involved in their education and upbringing and was their "true dad" and

"primary caregiver".[101] He claims that he never failed to attend meet-the-parents sessions at their schools and sought to keep track of their conduct and academic performance.[102] The Husband also alleged that he had helped [P] to enrol in the "Triple Science" stream in school by drafting an appeal letter when [P] did not do well in Chemistry. He also claims that he "painstakingly did all the research and running around" to help [P] secure a place in an Australian university to study medicine. As for [Q], the Husband claims that he was "always there for her", visited her in hospital when she was ill, and fetched her to and from school and her various appointments.[103] The Husband also claims that the Wife was engrossed in pursuing material wealth and therefore neglected her motherly duties.[104]

101 The Wife claims that the Husband was not involved in [P's] and [Q's] upbringing and that the children merely tolerated him to keep the peace at home. Their interactions with the Husband were "limited and insignificant".[105] The Wife has also stressed that at the time the parties married, [P] was already 20 years old and [Q] was already 17 years old.

102 As mentioned at [92] above, I find that the parties' contributions prior to the marriage, and in the years that they were cohabiting, were factors relevant to the division of matrimonial assets. When the parties began cohabiting, [P] was only eight years old, while [Q] was 5. The Husband's involvement in

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101 Husband's 21 August 2018 amended written submissions, paras 150 and 155.

102 Husband's 21 August 2018 amended written submissions, para 143.

103 Husband's 21 August 2018 amended written submissions, para 136 and 141.

104 Husband's 21 August 2018 amended written submissions, para 151–153.

105 Wife's 14 May 2018 written submissions, paras 120–121.

caregiving would count as an indirect contribution, notwithstanding that this would mostly have taken place before the parties formalised their relationship in marriage.

103 In seeking to prove his claims that he was actively involved in [P's] and [Q's] upbringing and was their primary caregiver, the Husband adduced evidence in the form of several Fathers' Day and birthday greeting cards which the children had written to him from 2013 to 2015. The affectionate tone of these greeting cards lends some support for the Husband's position. The children referred to him as "Papa [Husband's name]" and thanked him effusively for his care, support, sacrifices and "little actions of love every day".[106] The children also spoke of how much they had learned from the Husband and how they appreciated his guidance and advice.[107] In several of these greeting cards, [P] and [Q] mentioned that they were looking forward to celebrating the occasion in question with the Husband.[108]

104 This evidence is difficult to reconcile with the affidavits which [P] and [Q] have affirmed in these proceedings in which they claim that they were never close to the Husband and that he never took the initiative to bond with them. In [Q's] affidavit, she claims that living with the Husband was "tense and uncomfortable",[109] and that they had a "poor relationship". She also claims that it was the Wife who made her write birthday cards and Fathers' Day cards for the Husband to make him feel welcome and part of the family, and that she

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106 Husband's 21 August 2018 amended written submissions, para 144-147.

107 Husband's 3rd affidavit of assets and means, pp 779–788.

108 Husband's 3rd affidavit of assets and means, pp 786, 788.

109 [Q's] affidavit, para 8.

would simply rely on her mother's suggested phrasing and recycle the same messages each year.[110] Likewise [P] claims that he seldom shared things about his life with the Husband and that they had an "insignificant amount of interaction".[111] He also claims that the messages and greeting cards relied on by the Husband do not represent his sincere thoughts and feelings, and that he had merely written them at the Wife's suggestion to keep peace and harmony at home.[112]

105 My assessment of the evidence is that, on a balance of probabilities, there is truth to the Husband's claim that he played a parental role in [P] and [Q's] lives, and that he did contribute to their upbringing. Notwithstanding the claims in [P's] and [Q's] affidavits, the tone and wording of their greeting cards appear to be genuine and suggest that the children did not have as tense and estranged a relationship as they claim that they had with the Husband. While [P] and [Q] claim that they had written these greeting cards at the Wife's behest and simply adopted her suggested phrasing, the language used in these cards and the detail in which the children thank the Husband and describe his acts of care towards them cast doubt on the position which they take in their affidavits. However much the relationship between the Husband and [P] and [Q] may have deteriorated since these cards were written, I find that they support a conclusion that the Husband did play a significant role in caring for [P] and [Q].

106 On the other hand, I was not convinced that the Husband was the children's *primary* caregiver as he claimed. [P] and [Q]'s affidavits suggest that

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110 [Q's] affidavit, para 21.

111 [P's] affidavit, para 13.

112 [P's] affidavit, paras 9 and 22.

the Wife played a large role in their upbringing and was actively involved in seeing to their needs. For example, I see no reason to doubt [Q's] claim that her mother had accompanied her in visiting the secondary schools of her choice, and had assisted her in her Direct Schools Admission applications.[113] Likewise, [P]'s evidence was that he would speak to and consult the Wife about decisions such as what subject he should study in university and where he should attend university.[114] The overall impression which I draw from the evidence is that the Wife was probably the children's primary caregiver, although the Husband did not have an insignificant role.

107 As for the issue of whether the Husband made indirect non-financial contributions by assisting the Wife in her work as a real estate agent, the Husband claims that throughout their relationship, he gave legal advice to the Wife and helped her in drafting agreements and correspondence with her clients and tenants.[115] The Wife denies this, and asserts that most of the legal documents she relied on in her work were standard forms from the real estate agency which she represents. The Husband's involvement was "minimal and nominal at best".[116] She claims that it was *she* who contributed to the *Husband's* career by referring her clients to the Husband for conveyancing matters. I find that neither party has adduced evidence to support their respective positions and this was essentially a matter of the Husband's word against the Wife's. That being the case, I make no finding as to the truth of the Husband's claims and shall disregard this in determining the ratio of the parties' indirect contributions.

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113 [Q's] affidavit, paras 13–14.

114 [P's] affidavit, para 9.

115 Husband's 21 August 2018 amended written submissions, para 129.

116 Wife's 14 May 2018 written submissions, para 124.

(2) Indirect financial contributions

108 It is not seriously in dispute that the Wife was the party who earned significantly more income and that she was, therefore, also the party who primarily paid for the household expenses such as the utility bills, groceries, the domestic helper's salary and the children's school fees.[117] However, the Husband claims that he contributed monthly payments of $1,500 towards the household expenses, which were later reduced to $1,000 payments because of his poor earnings.[118] The Wife denies that the Husband made such contributions, although it seems she accepts that the Husband may have paid for a few expenses here and there, such as [P's] air tickets to and from Australia when he attended university there. She submits, however, that any such contribution was *de minimis*.[119] Again, there is a lack of evidence to support either party's position. The conclusion which I draw is that most of the indirect financial contributions are attributable to the Wife.

109 Taking the circumstances in the round, I find that the indirect contributions ratio for the husband and the wife is 25:75.

*Weightage*

110 As stated by the court in *ANJ v ANK* at [26], the presumptive position is that direct contributions and indirect contributions carry equal weight, but in the appropriate circumstances, the court may adjust the weightage to be given to

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117 Wife's 14 May 2018 written submissions, para 113 and Husband's 21 August 2018 amended written submissions, para 124.

118 Husband's 21 August 2018 amended written submissions, para 124.

119 Wife's 14 May 2018 written submissions, para 116.

each category. The factors which the courts may consider include the length of the marriage, and the size of the pool of matrimonial assets and its constituents. Indirect contributions tend to feature less prominently in shorter marriages (at [27(a)]). Direct contributions tend to command greater weight in marriages where the pool of assets available for division is large and such assets have generally been accrued by one party's exceptional efforts (at [27(b)]).

111 The Wife argues that, applying the principles stated in *ANJ v ANK* at [27], this is a case where direct contributions ought to command greater weight. This is because the marriage was relatively short, and the bulk of the matrimonial assets were acquired as a result of the Wife's efforts.[120]

112 I agree with the Wife that the pool of assets available for division is fairly large in this case and that these assets are mostly the fruits of the Wife's efforts. I also agreed with the Wife that this was, at least formally, a short and childless marriage, although this factor was weakened somewhat given the fact that the parties had cohabited for a long period of time and shared caregiving responsibilities over the Wife's children from a previous marriage. Taking the circumstances in the round, I consider that the weightage to be given to direct financial contributions is 70%, and the weightage to be given to indirect contributions is 30%. On this basis, the ratio for division of assets would be as follows:

| | **Wife** | **Husband** |
|---|---|---|
| Direct contributions (70% weightage) | 66.5% (0.7 × 95%) | 3.5% (0.7 × 5%) |
| Indirect contributions (30% weightage) | 22.5% (0.3 × 75%) | 7.5% (0.3 × 25%) |

[120] Wife's 14 May 2018 written submissions, para 133–138.

| | | |
|---|---|---|
| Average Ratio | 89% | 11% |

*Adverse inferences*

113 Before I apply the ratios derived in the table above to the pool of matrimonial assets, this is a convenient juncture at which to discuss the parties' submissions regarding adverse inferences. Both the Husband and the Wife have submitted that adverse inferences ought to be drawn against the other party.

114 The Wife submits that the Husband has failed to give full and frank disclosure throughout the proceedings. She points to the fact that the Husband failed to disclose the UOB One Account and POSB Accounts in his sole name, which he opened in May and June 2016, until a very late stage of the proceedings in February and May 2018.[121] She also avers that the Husband has given an unsatisfactory explanation in relation to several withdrawals, such as a withdrawal of $25,000 made from his POSB Account in July 2015. He initially claimed he used this $25,000 withdrawal to purchase a diamond ring for the Wife, but the diamond ring which he gave the Wife was purchased in either 2009 or 2011.[122] The Wife also claims that the Husband has understated his income and has given dubious explanations as to the source of funds flowing into his bank accounts.[123]

115 The Husband submits that the Wife has also failed to give full and frank disclosure and has shown a tendency to conceal her assets. He has asked for an additional 10% of the pool of matrimonial assets to be awarded to him in order

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121 Wife's 26 July 2018 written submissions, para 11 (items 1 and 8).

122 Wife's 26 July 2018 written submissions, para 11 (item 3).

123 Wife's 26 July 2018 written submissions, para 11 (item 11).

to give effect to the adverse inference which he claims should be drawn against the Wife.[124] The Husband highlights that the Wife had failed to disclose the fact that she had sold the Bedok North and Woodleigh Properties until this was discovered by the Husband, and that she then failed to give a satisfactory account of what became of the sales proceeds.[125] Further, she has failed to provide disclosure of her substantial portfolio of US stocks.[126] The Husband also contends that the Wife had ramped up her liabilities in anticipation of the divorce,[127] and has not explained how she expended two loans of $585,345 and $545,000 which were taken against the matrimonial home.[128]

116 In my view, both parties have, to some extent, failed to provide full and frank disclosure throughout the course of these proceedings. As for the Husband, I find that he has provided information (for example, in relation to his bank accounts) in a rather piecemeal way, often in response to objective information provided by the Wife. He has also changed his position several times in seeking to explain withdrawals and transfers of monies. As for the Wife, it was less than satisfactory that she had failed to disclose the sales of the Bedok North and Woodleigh Properties, and that she had sought to rely on Premas's valuation of these properties in an affidavit dated 22 November 2017, without revealing the fact that she had sold these properties for a higher price.[129]

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124 Husband's 21 August 2018 amended written submissions, para 190.

125 Husband's 21 August 2018 amended written submissions, para 170–171.

126 Husband's 21 August 2018 amended written submissions, para 181.

127 Husband's 21 August 2018 amended written submissions, para 174.

128 Husband's 21 August 2018 amended written submissions, paras 183–184.

129 Wife's 22 November 2017 affidavit, p 539.

117 Nevertheless, I decline to draw an adverse inference against either party as I find that there is no substratum of evidence that establishes a *prima facie* case against the other party that there are remaining assets which have not been disclosed to the court (see *Koh Bee Choo v Choo Chai Huah* [2007] SGCA 21 at [28]). To the extent that any funds in the Husband's UOB One Account and POSB Accounts had not been disclosed previously, they have now been included in the pool of matrimonial assets (see [43] above). As for the unexplained withdrawals of sums such as $25,000 and $9,000 by the Husband in 2015, I am of the view that the size and timing of these withdrawals are not such that they disclose a *prima facie* case of dissipation. As for the Wife's claim that the Husband has not been forthcoming about his sources of funds and has deliberately understated his income, I find that this is more relevant to the issue of maintenance which is discussed below.

118 Similarly the proceeds of the sales of the Bedok North Properties and the Woodleigh Properties have been addressed and included in the pool of matrimonial assets (to the extent appropriate, given that they were only partially paid for during the marriage – see [60]–[64] above). As for the Wife's allegedly undisclosed US stockholding which the Husband claims is worth some US$700,000, the document which the Husband cites dates to 2011.[130] There is insufficient evidence to suggest that the Wife still has these assets and has concealed them. In relation to the loans of $585,345 and $545,000, it should be noted that the loans were *not* fresh liabilities but loans incurred in 2008 and 2013. The Wife claims she used them to finance her other property investments

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130 Husband's 22 November 2017 affidavit, p 185.

and the Husband appears to have accepted this.[131] I saw no reason to draw any adverse inference against the Wife in respect of these two loans.

***Conclusion on division of matrimonial assets***

119 To recapitulate, the total value of the parties' assets is $9,626,759.63. The Husband is entitled to 11% of this total value – *ie*, to assets worth $1,058,943.56. He presently has assets in his name worth $148,658.02. This means $910,285.44 is due to him from the pool.

**Maintenance**

120 The Husband seeks monthly maintenance of $2,500 pursuant to s 113 of the Women's Charter, which I reproduce here for convenience:

> **Power of court to order maintenance**
>
> **113.—**(1) The court may order a man to pay maintenance to his wife or former wife, or order a woman to pay maintenance to her incapacitated husband or incapacitated former husband —
>
> (*a*) during the course of any matrimonial proceedings; or
>
> (*b*) when granting or subsequent to the grant of a judgment of divorce…

121 The Husband claims that he is incapacitated within the meaning of s 113(1) by virtue of Meniere's Disease, a condition which causes hearing loss, vertigo and tinnitus. He claims that as a result of this disease he has had to give up his work as a lawyer and makes a living earning about $600 per month as a

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131 Husband's 3rd affidavit of assets and means, paras 137–139

"roving Commissioner for Oaths", as well as by working on a few simple conveyancing and uncontested probate matters.[132]

122 The Wife argues that the Husband is not as severely affected by the disease as he claims. She asserts that the medical reports which the Husband relies on do not even express definitively that the Husband suffers from the disease, and that none of the medical reports relied on by the Husband go so far as to say he is unable to work.[133] The Wife has also adduced two reports by private investigators which, in her submission, show that the Husband is able to go about a typical work day normally.[134] She further contends that the Husband has deliberately understated his income to support his claim for maintenance. In this regard, she highlights that the Husband's declared annual income for 2012 was as high as $8,991.75, and this was despite the fact that by then, he had been suffering from Meniere's Disease since 2009.[135]

123 The term "incapacitated former husband" is defined in s 2 of the Women's Charter as follows:

> "incapacitated former husband", in relation to a dissolved or an annulled marriage, means a former husband to the marriage who —
>
> > (a) during the subsistence of the marriage, was or became —
> >
> > > (i) incapacitated, by any physical or mental disability or any illness, from earning a livelihood; and

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132 Husband's 21 August 2018 amended written submissions, para 195.

133 Wife's 14 May 2018 written submissions, paras 162–169.

134 Wife's 14 May 2018 written submissions, paras 171–176.

135 Wife's 14 May 2018 written submissions, paras 177–182.

(ii) unable to maintain himself; and

(b) continues to be unable to maintain himself

124 The relevant question is, therefore, whether the Husband has become incapacitated from earning a livelihood by virtue of Meniere's Disease. Having regard to the evidence, I find that there is insufficient basis to support the conclusion that the Husband has become incapacitated from earning a livelihood. I generally agree with the Wife that the medical reports relied upon by the Husband do not suggest that the Husband is completely unable to work. Rather, they suggest that he may be unable to work *upon the onset of an attack* of vertigo.[136] As to the frequency of these attacks, the medical reports are largely based on the Husband's own account that he had "six episodes of vertigo from April 2016 to June 2016",[137] and I find that they carry limited weight as an objective indicator of the frequency of his attacks. I also note that despite the Husband's claim that he has been suffering from frequent debilitating attacks of vertigo, there is nothing in evidence to suggest that he has more recently sought medical treatment, which would be expected if the attacks were as frequent and disruptive as he claims. I also take into consideration the private investigator reports which do suggest that the Husband is able to go about his daily activities.[138]

125 This is not to say that the Husband is not affected by Meniere's Disease at all. It may well be the case that he is affected by the disease to some extent. That is, however, a different matter from whether he is *incapacitated from*

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136 Husband's 1 December 2016 affidavit, p 306.

137 Husband's 1 December 2016 affidavit, p 307.

138 Wife's 22 November 2017 affidavit, pp 974–1010.

*earning a livelihood* within the meaning of s 113 of the Women's Charter. The ordinary meaning of the term "livelihood" is defined as "a means of securing the necessities of life".[139] I was not persuaded that the Husband had become unable to earn a means of securing the necessities of life. While the Husband's monthly income for 2016 was a rather meagre sum of $598, I did not think that this was an accurate indicator of the Husband's earning capacity, given that just a year before this, his monthly income was in excess of $2,000. Moreover, while one can imagine how litigation and court work may be affected by the Husband's condition, which apparently causes hearing deterioration, I was not persuaded that Meniere's Disease would render him unable to perform other kinds of legal work.

126 For these reasons, I find that the Husband does not meet the definition of an incapacitated husband. There is, therefore, no basis for the court to order an award of maintenance.

**Conclusion**

127 For the reasons aforementioned, I find that the Husband is entitled to 11% of the pool of matrimonial assets, and this corresponds to a value of $910,285.44 ($1,058,943.55 - $148,658.02) that the Wife will have to pay him after taking into consideration the value of the assets in his name. I also find that the Husband is not entitled to receive maintenance from the Wife under s 113(1) of the Women's Charter.

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139 Oxford English Dictionary online (https://en.oxforddictionaries.com/definition/livelihood).

128 With regard to the division of matrimonial assets, the parties have not made submissions as to any proposed specific allocation. They may decide on a convenient mode of dividing the assets which is agreeable to both parties. If they fail to come to an agreement within 3 months of this judgment, they are at liberty to apply for further directions to implement my decision

129 I shall hear the parties on costs.

Tan Puay Boon
Judicial Commissioner

Yap Teong Liang and Tan Hui Qing (M/s T L Yap Law Chambers LLC) for the plaintiff;
Josephine Chong and Esther Yeo (M/s Josephine Chong LLC) for the defendant.

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