IN THE APPELLATE DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2025] SGHC(A) 21

Appellate Division / Civil Appeal No 37 of 2025

Between

DOP

… *Appellant*

And

DOO

… *Respondent*

EX TEMPORE JUDGMENT

[Equity — Remedies — Equitable accounting]
[Trusts — Constructive trusts — Common intention constructive trust]
[Trusts — Resulting trusts — Presumed resulting trusts]

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v
DOO

[2025] SGHC(A) 21

Appellate Division of the High Court — Civil Appeal 37 of 2025
Woo Bih Li JAD, Kannan Ramesh JAD and Debbie Ong Siew Ling JAD
30 October 2025

30 October 2025

Kannan Ramesh JAD (delivering the judgment of the court *ex tempore*):

Introduction

1 This is an appeal against the decision of the judge below (the "Judge"), that beneficial ownership of a property was to be shared equally between the parties who were in a relationship where they had children, but did not marry. The Judge's decision is reported in *DOO v DOP* [2025] SGHC 85 (the "Judgment"). The appellant appealed against the Judge's decision. There is no cross-appeal by the respondent.

Background

2 The appellant and respondent are French Nationals who moved to Singapore in 2010. While they never married, they nonetheless regarded themselves as akin to husband and wife respectively. They cohabited from 2006 to April 2019 and had two sons, born in 2012 and 2015. The children are

presently living in Singapore with the appellant who has care and control of them pursuant to court orders made in French proceedings, one of which was mirrored in Singapore.

3 The dispute centres around the beneficial ownership of a property (the "Property") the couple purchased as joint tenants in December 2011, less than a year before their first child was born. The Property was purchased for $1.65m with the parties paying the upfront fees of, according to the appellant, $375,503.28, which comprised part payment of the purchase price, and stamp and conveyancing fees. It is undisputed that the appellant, who was during the course of the relationship earning much more than the respondent, paid most of this sum. The respondent's contribution in this regard was $24,811.50 and the appellant's was $350,691.78.

4 The balance of the purchase price was met by a bank loan of $1.32m, which the parties jointly borrowed. For at least six years after the purchase of the Property, the monthly instalments were serviced equally by both parties. The respondent stopped making payment of her share of the instalments in 2018 because she was told in May 2018 that she would be retrenched. Her employer eventually ceased operations in August 2018. The exact date when the respondent ceased making payment is disputed by the parties. We address this below at [30]. It is not disputed that the ratio of the parties' respective financial contributions to the purchase of the Property is 83.7:16.3 in the appellant's favour, as at the date of his affidavit of 17 October 2024.

5 The parties resided in the Property with the children following the purchase. In December 2018, their relationship broke down, and the respondent moved out in April 2019. The parties disagreed on whether the Property should be sold, and if it was, how the net sale proceeds should be shared. On

26 September 2024, the respondent filed HC/OA 997/2024, for the Property to be sold and the balance sale proceeds to be split equally between the parties. The appellant counterclaimed for a declaration that the beneficial ownership of the Property should be based on the parties' respective financial contributions towards the Property, *ie*, 83.7:16.3 in his favour.

Decision below

6 The Judge held that the Property was subject to a common intention constructive trust, where the beneficial ownership was shared equally between the parties (Judgment at [14]). He ordered the Property to be sold and for the net sale proceeds to be shared equally between the parties, subject to the appellant having the option to purchase the respondent's interest in the Property at a price fixed as at 7 May 2025. The parties were to bear their own costs (Judgment at [24]–[25]).

7 The Judge ordered equitable accounting as regards the mortgage instalments that the appellant paid from January 2019 to October 2024 amounting to $141,906.50, and any mortgage instalments paid by the appellant on the respondent's behalf from November 2024 to the date of the Judgment (Judgment at [23]). However, he declined to make a similar order in respect of the upfront fees and the mortgage instalments paid by the appellant prior to January 2019.

The parties' respective cases

8 The appellant appealed against the entirety of the Judge's decision. His primary case is that the Judge erred in finding that there was a common intention for equal beneficial ownership. In this regard, the Judge allegedly wrongly assessed the evidence before him and also erroneously applied the test set out

in *Chan Yuen Lan v See Fong Mun* [2014] 3 SLR 1048 ("*Chan Yuen Lan*") at [160].

9 In the alternative, the appellant contends that if there was a common intention for equal beneficial ownership, such an intention would have changed by around 2014. In the further alternative, the appellant's contention is that if there was a common intention for equal beneficial ownership and there was no subsequent change to that intention, then by way of equitable accounting the appellant should be reimbursed *all* amounts he paid in excess of 50% of the Property's purchase price, including the upfront costs and the mortgage payments from May to December 2018 that he made in full.

10 The respondent largely aligns herself with the Judge's findings.

Issues to be determined

11 There are two principal issues before us, namely:

(a) whether the parties had a common intention at the time of purchase of the Property that their beneficial interests were to be in equal shares or in accordance with their financial contributions; and

(b) whether equitable accounting should be ordered in respect of the upfront fees and the mortgage payments made by the appellant before January 2019.

The parties' common intention

12 On the first issue, the respondent's case is that the parties had a common intention that they would beneficially own the Property in equal shares. The

appellant's case, on the other hand, is that there was an oral agreement that the parties would beneficially own the Property in proportion to their respective financial contributions.

13 We observe that, generally, a common intention may arise from an oral agreement. Thus, a common intention is not necessarily inconsistent with an express oral agreement. In the present case, it appears that the oral agreement that the appellant alleges is not based on an express oral agreement between the parties. Like the respondent, it is in fact an assertion that the parties shared a common intention. The difference between them is what that common intention was. The appellant mentioned in his affidavit of 17 October 2024 that the parties had "orally agreed" that title to the Property would be in accordance with their respective financial contributions towards the acquisition of the Property, but he also defines the alleged agreement as the "Understanding" in the same affidavit. Significantly, there is no elaboration on when and in what circumstances the alleged agreement was made.

14 It is readily apparent that the understanding between the parties is a dispute of fact which should have been tested at a trial. However, the action below was commenced as an originating application and for reasons that are not clear, the parties chose not to convert the proceedings to an originating claim. The Judge therefore evaluated the affidavit evidence as best as he could and found that there was a common intention as alleged by the respondent. The appellant challenges that finding on appeal. Thus, unless the appellant is able to demonstrate that the Judge failed to appreciate any material fact or his finding was plainly wrong on the evidence, there is no basis for appellate intervention. In our view, the appellant has failed to discharge his burden.

The Judge correctly applied the test as set out in Chan Yuen Lan

15 The parties agree that the applicable test is as set out by the Court of Appeal in *Chan Yuen Lan* at [160]. Steps (a), (b) and (f) are relevant to this issue:

> (a) Is there sufficient evidence of the parties' respective financial contributions to the purchase price of the property? If the answer is "yes", it will be presumed that the parties hold the beneficial interest in the property in proportion to their respective contributions to the purchase price (*ie*, the presumption of resulting trust arises). If the answer is "no", it will be presumed that the parties hold the beneficial interest in the same manner as that in which the legal interest is held.
>
> (b) Regardless of whether the answer to (a) is "yes" or "no", is there sufficient evidence of an express or an inferred common intention that the parties should hold the beneficial interest in the property in a proportion which is different from that set out in (a)? If the answer is "yes", the parties will hold the beneficial interest in accordance with that common intention instead, and not in the manner set out in (a). In this regard, the court may not impute a common intention to the parties where one did not in fact exist.
>
> …
>
> (f) Notwithstanding the situation at the time the property was acquired, is there sufficient and compelling evidence of a subsequent express or inferred common intention that the parties should hold the beneficial interest in a proportion which is different from that in which the beneficial interest was held at the time of acquisition of the property? If the answer is "yes", the parties will hold the beneficial interest in accordance with the subsequent altered proportion. If the answer is "no", the parties will hold the beneficial interest in one of the modes set out at (b)–(e) above, depending on which is applicable.

16 As a preliminary point, the appellant submits that the Judge erred in his application of *Chan Yuen Lan*. He argues, referring to the Judgment at [12], that in assessing whether there was an oral agreement, the Judge had placed an additional burden on him to prove that fact. According to the appellant, it was unnecessary for the Judge to assess whether there was an oral agreement

because Step (a) of the *Chan Yuen Lan* framework already caters for a presumption of resulting trust based on unequal financial contributions by the parties. The Judge's focus should therefore have been on whether the respondent's allegation of a common intention was true, rather than whether the appellant's allegation of oral agreement was. By focusing on the oral agreement, the Judge placed the burden of proof on him when it was on the respondent as the claimant.

17 We do not accept the appellant's argument. The *Chan Yuen Lan* test requires Step (b) to be considered "regardless of whether the answer to [Step] (a) is 'yes' or 'no'". The Judge therefore had to assess whether there was sufficient evidence of an express or inferred common intention that the parties would hold the beneficial interest in the Property in a proportion different from their respective financial contribution. In making that assessment, the appellant's alleged oral agreement becomes pertinent as it runs counter to the respondent's alleged common intention for equal beneficial ownership, which was the relevant inquiry for Step (b). Obviously, if there was credible evidence of the alleged oral agreement, the respondent's alleged common intention would be undermined. That is, broadly speaking, what the Judge sought to do (see the Judgment at [12]). There is no question of an additional burden being placed on the appellant, or the burden of proof being shifted from the respondent to the appellant.

There is evidence of the common intention for equal beneficial ownership

18 This brings us to the question of whether there is sufficient evidence to support the oral agreement as alleged by the appellant or the common intention as alleged by the respondent. In our view, it is the latter.

19 Several facts stand out, some of which should be seen through the lens of the familial relationship between the parties at the time the Property was bought, as set out above. First, the parties chose to buy the Property as joint tenants despite their avowed intention to keep their assets separate, which appears to be one of the reasons they did not marry each other. As the appellant was earning much more than the respondent and making the much larger financial contribution to the upfront fees, there was nothing to stop the appellant from buying the Property in his sole name or for the parties to purchase the Property as tenants-in-common in unequal shares to reflect their unequal financial contributions to acquire the Property, if it was their intention to segregate their interests based on their contributions. We acknowledge that the fact that the parties are joint tenants is not conclusive as to their intention to have equal beneficial ownership of the Property. However, the parties also decided to purchase the Property to be their family home to raise their children. In fact, the parties had described themselves as husband and wife in various documents.

20 Second, the parties jointly contributed to the purchase of the Property by: (a) paying the upfront fees (although not equally); (b) jointly borrowing from the bank; and (c) sharing the mortgage payments equally for at least six years thereafter. The third factor is particularly pertinent because the respondent paid exactly half of the monthly instalments, and this was notwithstanding that the appellant was significantly outearning the respondent. Such conduct is consistent with a common intention for the Property to be beneficially owned equally. Debt service in this manner would have continued if not for the fact that the respondent had lost her job in August 2018, with the appellant stepping in sometime in 2018 to take on her share of the monthly instalments. Subsequent conduct may be relevant to the extent it sheds light on the existence of a prior

intent or agreement between the co-owners (*Su Emmanuel v Emmanuel Priya Ethel Anne and another* [2016] 3 SLR 1222 ("*Su Emmanuel*") at [87] and [90]).

21 Third, the appellant had acknowledged that the Property would be held equally. In an affidavit dated 30 March 2019 filed in the French proceedings (the "French Affidavit"), the appellant asserted that "expenses relating to the family home" or "family home maintenance" should be borne equally between the parties as "they have undivided ownership *in an equal manner*" [emphasis added]. The appellant argues that the italicised words refer to the equal contribution each party had to make towards the family's home expenses, rather than the extent of their interest in the Property. We do not find this explanation credible. The appellant's proposal that the parties share the family's home expenses equally was justified on the basis that the Property was owned equally. It is relevant in our view that the family home expenses were principally in relation to the ownership of the Property such as, for example, mortgage payments and property tax. The appellant sought these expenses to be borne equally on the basis that the Property was held in "joint ownership". It was in this context that the appellant stated that the parties "have undivided ownership in an equal manner". Moreover, if the italicised portion was about the family's home expenses being shared equally, it would have been redundant to have preceded "in an equal manner" by "undivided ownership". The very fact it was made, qualifies the meaning of "in an equal manner".

22 According to the appellant, the respondent allegedly admitted in her affidavit that the Property's beneficial interest would be based on their respective financial contributions. We disagree with the appellant. In the respondent's affidavit dated 25 September 2024, she stated that she moved out of the Property in May 2022 as "[she] thought that since [the parties] were not married and there was no formal written agreement, it would fall back to

contribution, but [she] did not look into this then as [she] was focused on the matter of the children". This sentence must be seen in context. In the same affidavit at para 10, the respondent referred to an earlier email from her to the appellant, dated 4 April 2019, where she assumed that she would get "50% of the sale proceeds (equity)" from the sale of the Property. In that same paragraph, the respondent specifically alleged that the parties shared the "mutual understanding and agreement that [they] own equal shares of the Property". This is consistent with her case. In any event, the sentence in question does not shed light on the parties' common intention at the *time of acquisition*. Further, the evidence as outlined above supports the respondent's case that the common intention at the time of acquisition was indeed for equal beneficial ownership.

23 Finally, we have some difficulty with the appellant's alleged oral agreement. The purpose of any agreement or understanding at the time of acquisition is to provide certainty as to the parties' respective beneficial interests. The oral agreement as alleged by the appellant did not achieve this, as the parties' respective beneficial interests would only be crystallised when payment for the Property had been fully settled in the future.

24 For these reasons, we are of the view that there is no basis for appellate intervention on the Judge's finding that there was a common intention as alleged by the respondent.

No subsequent change to common intention

25 We next address the appellant's alternative argument that even if there was a common intention, that would have changed by around 2014. We should point out that before the Judge, the appellant submitted that any common

intention would have changed in or around 2014 or 2015. We do not accept the appellant's alternative argument in any event.

26 Any subsequent change of common intention is relevant to Step (f) of the *Chan Yuen Lan* test: notwithstanding the situation at the time the property in question was acquired, if there is "*sufficient and compelling evidence* of a subsequent express or inferred common intention that the parties should hold the beneficial interest in a proportion which is different from that in which the beneficial interest was held at the time of acquisition of the property", [emphasis added] then the parties will hold the beneficial interest in accordance with the subsequent altered proportion (*Chan Yuen Lan* at [160(f)]).

27 However, the evidence here is hardly compelling let alone sufficient. As a preliminary point, the appellant's argument has an obvious flaw. As it appears to be the case, the change, if any, was unilateral as it was only from the appellant. It cannot be reflective of a subsequent *common* intention. There are other issues with the appellant's argument as well. The appellant argues that by 2015, he started to alienate the respondent from his life, including his assets and finances, as the parties had drifted apart. However, the parties only separated in December 2018 and, more importantly, their second son was born in 2015. Further, as it will be clear when we discuss the issue of equitable accounting, the appellant agreed to bear the respondent's share of the instalments for some part of 2018 as a result of her retrenchment. All these factors are inconsistent with the appellant's reason for the purported change in common intention. We therefore reject the appellant's alternative argument.

Equitable accounting

28 We turn to the second issue, regarding whether equitable accounting should be ordered for the upfront fees and the mortgage instalments before January 2019, which were paid by the appellant. To recapitulate, the Judge declined to order equitable accounting in respect of these payments (see [7] above). On appeal, the appellant challenges the Judge's decision and argues that he should be reimbursed for any amount he paid in excess of 50% of the upfront fees and mortgage instalments. This is on the assumption that he has failed on the first issue.

29 We first deal with the instalments before January 2019. We agree with the Judge that the appellant did not intend to claim any contribution from the respondent for a period of six months. In the French Affidavit, the appellant stated:

> At the end of August 2018, [the respondent] decided to undertake a professional reconversion …
>
> Since then, [the appellant] has been paying for all the child's needs, not only the needs of the children and the expenses of the family home, but also the personal expenses of [the respondent].
>
> *By support for [the respondent], [the appellant] has accepted to pay for these expenses for a period of 6 months.* It is now 8 months and [the appellant] finds himself in a delicate financial situation …
>
> [emphasis added]

The appellant appears to have accepted that he was prepared to cover the "expenses of the family home" which must mean the mortgage payments, as the other expenses expressly referred to therein were the children's expenses and the respondent's personal expenses.

30 We note an inconsistency in the order for equitable accounting that the Judge had made. The appellant's position was that the respondent stopped contributing to the mortgage instalments in May 2018, such that he covered the full mortgage instalments from May 2018 onwards. On the other hand, the respondent's position was that she ceased making payment in July 2018. The Judge accepted the appellant's position. However, the Judge ordered equitable accounting from January 2019 instead of November 2018, notwithstanding his finding that the appellant agreed to take on the mortgage payments without seeking reimbursement for a period of *six* months (Judgment at [20] and [22]). Six months from *May* 2018 would bring us to October 2018. There is thus a gap of two months, namely November and December 2018.

31 This point was not raised in the Appellant's Case and counsel for the appellant, Mr See Chern Yang ("Mr See"), accepted this when we pointed out the inconsistency. Mr See nonetheless sought to then raise the point in oral submissions. We declined to consider it as permitting the appellant to make the argument at this stage would be prejudicial to the respondent. There are two related reasons. First, this was not raised in the Appellant's Case. Second, we had reservations on the correctness of the Judge's finding that the appellant made payment in full from May 2018. The burden of proof was on the appellant, as the party seeking equitable accounting, to prove this fact and it was evident to us that the appellant had failed to discharge that burden. The appellant adduced no direct evidence on this issue, such as bank statements which showed that he was making the payment in full as alleged. Mr See conceded this. Indeed, based on the French Affidavit, the appellant appeared to accept that the respondent stopped contributing to the mortgage payments from *August* 2018, being approximately eight months from the time the French Affidavit was filed

(see [29] above). Thus, it is at the very least unclear when the appellant started making mortgage payments in full.

32 We turn to the upfront fees. The finding of a common intention on the first issue is relevant here. The common intention between the parties was for equal beneficial ownership of the Property, and that intention was reached in the context of the upfront fees paid by the parties. Thus, in arriving at their common intention, the parties had taken into account the upfront fees, *ie*, their intention was that both parties would have equal beneficial interest in the Property notwithstanding their respective financial contributions to the upfront fees. Consequently, to order equitable accounting of the upfront fees would be to undermine the parties' common intention at the time of acquisition (*Su Emmanuel* at [104]–[105]). We therefore dismiss the appeal on the second issue as well.

Conclusion

33 For the foregoing reasons, we dismiss the appeal. Having considered the parties' respective submissions on costs, we award costs of $35,000 (inclusive of disbursements) to the respondent for the appeal. The usual consequential orders apply.

Woo Bih Li
Judge of the Appellate Division

Kannan Ramesh
Judge of the Appellate Division

Debbie Ong Siew Ling
Judge of the Appellate Division

See Chern Yang and Claudia Anne Binny (Drew & Napier LLC) for the appellant;
Wong Ying Joleen (IRB Law LLP) for the respondent.
