

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGFC 110

FC/OAD 992 of 2025
FC/SUM 1182/2025
FC/SUM 1884/2025
FC/SUM 2290/2025

Between

XSX

And

XSX

JUDGEMENT:
APPLICATION FOR STAY OF PROCEEDINGS

Conflict of Laws – Natural forum – Whether divorce proceedings in Singapore ought to be stayed based on forum non conveniens

Domicile – Accommodation – Relevance to determination of domicile – Whether failure to own immoveable assets in Singapore negates intention to settle in this country

Habitual residence – Whether mere possibility of cessation of employment negates habitual residence

Family Law – Divorce – Stay of proceedings – Divorce proceedings in Singapore and France – Parties and their children are French citizens and have resided in Singapore for 10 years – Wife is working in Singapore and the

children are studying in the French International School – Husband recently returned to France permanently – French courts obliged to apply Singapore law if they were to adjudicate on divorce and ancillary matters – Whether France is more appropriate forum to determine these matters – Whether divorce proceeding in Singapore should be stayed

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XSX

v

XSX

[2025] SGFC 110

Family Court – FC/OAD 992 of 2025
FC/SUM 1182/2025
FC/SUM 1884/2025
FC/SUM 2290/2025

District Judge Kow Keng Siong
2 September, 7, 23 and 30 October 2025

30 October 2025

District Judge Kow Keng Siong:

Introduction

1 This case concerns an application by the Husband to stay divorce proceedings commenced by the Wife in Singapore – on the ground that France is the more appropriate forum for such proceedings.

2 Both parties are French citizens and had lived in Singapore for about 10 years with their children (born in January 2009 and February 2016). The Wife opposed the stay application.

3 After considering the matter, I dismissed the application. These are my reasons.

Background

4 The parties married in France in September 2015. One month later, the Wife came to Singapore to work here. (She was pregnant with the second child at the material time.) In December 2015, the Husband and the first child joined her in Singapore.

5 From the start of the marriage, the Wife had been the sole breadwinner, while the Husband took care of the children and the household. This arrangement continued until about 2021, when the Husband started to work. He became unemployed in May 2025. According to the Husband, it was difficult for him to find work here because (a) he was a foreigner and (b) his diploma certificate was not widely recognised here.

6 In February 2025, the Wife commenced divorce proceeding in Singapore (“**Singapore proceeding**”). About two to three months later,¹ the Husband commenced divorce proceeding in France (“**French proceeding**”).

7 At the time of this judgement –

- (a) The Wife and the children are residing in Singapore.
- (b) The Wife is in Singapore on an employment pass.

¹ The Husband claimed that the proceedings commenced in April 2025: Husband’s Affidavit dated 27.05.25 at [7]. On the other hand, the Wife claimed that the proceedings commenced in May 2025: Wife’s Affidavit dated 11.06.25 at [16].

(c) The children have dependant passes and are studying at the French International School.

(d) The Husband had left Singapore permanently for France.

Parties' case

Husband's case

8 In May 2025, the Husband applied to stay the Singapore proceeding. His grounds are as follows:²

(a) The parties and their children are all French citizens and domiciled in France.³

(b) The parties did not intend to set down roots in Singapore. According to the Husband, this is evidenced by the following:⁴

(i) They were not Singapore permanent residents (“PR”).

(ii) They had been living in rental apartments throughout their entire stay in Singapore and did not own any immovable assets here.⁵

(iii) The children were enrolled in the International French School under the French curriculum. This was to enable them to

² Husband's Affidavit dated 27.05.25 at [8].

³ Husband's Submissions dated 27.08.25 at [17].

⁴ Husband's Submissions dated 27.08.25 at [18], [21], [28], [29], [33], [34], [36] to [38], [47] to [50], and [58].

⁵ Husband's Submissions dated 27.08.25 at [28], [29] and [33].

assimilate more smoothly into the French educational system when they eventually return to France.⁶

(iv) The Wife had joined a social security scheme which included a retirement pension in France.⁷

(c) The only connection between the Wife and the children to Singapore was her employment here.

(i) If her employment pass were to be terminated, they would have to leave Singapore within 30 days.

(ii) Her employer was an internal design agency with operations in other countries. She had joined the employer because it was planning to set up operations in France.⁸

Wife's case

9 The Wife contended that Singapore – not France – was the appropriate forum for the divorce proceeding. This is because Singapore is the country of domicile for the children and her.⁹ She relied on the following to support her contention.

(a) The parties and the children had been residing in Singapore since 2015.¹⁰

⁶ Husband's Submissions dated 27.08.25 at [34] and [36] to [38].

⁷ Husband's Submissions dated 27.08.25 at [47] to [50].

⁸ Husband's Submissions dated 27.08.25 at [18(a)], [22] to [25].

⁹ Wife's Affidavit dated 11.06.25 at [21] to [25], [28] to [30], and [39].

¹⁰ Wife's Written Submissions dated 28.08.25 at [38(a)].

(b) For the past 10 years, the Wife had been on a local employment contract (as opposed to an expatriate contract) with no end date for the employment.

(c) She had subscribed to a 20-year local retirement plan.

(d) The children had been attending school in Singapore. Their welfare, healthcare, educational, spiritual and other needs would be better served here than in France. Singapore has a relatively large French community. The first child has two more years before he completes his international baccalaureate programme in Singapore. The Wife had no intention “presently” to move any of the children to France.¹¹

(e) It would be more convenient and cheaper to have the divorce and ancillary matters heard in Singapore given that the evidence is here.¹²

Wife’s applications to admit further evidence

10 During the hearing, the Wife made two applications to admit further evidence.

SUM 1884/2025 (“SUM 1884”) – Affidavit on Foreign Law

Wife’s application

11 In August 2025, the Wife applied to admit an Affidavit on Foreign Law by her French solicitor, Sabine Cazorla (“**Ms Sabine**”). The affidavit contained the following legal opinion.

¹¹ Wife’s Written Submissions dated 28.08.25 at [38(c)], [38(d)], [38(h)], [38(i)].

¹² Wife’s Written Submissions dated 28.08.25 at [38(b)].

French divorce laws

- (a) There are three stages to divorce proceedings in France.
- (i) Stage 1: The court will determine whether it has jurisdiction over the matter. If it does, the court will order provisional measures aimed at ensuring stability of the spouses and children pending the conclusion of the divorce proceeding.
- (ii) Stage 2: The court may dissolve the marriage after considering the pleadings and evidence. If appropriate, it will also make orders relating to spousal maintenance and child arrangements.
- (iii) Stage 3: The matrimonial assets will be distributed.¹³
- (b) Divorce proceedings can take about 28 months (without appeal) and up to seven to 10 years (in the most contested cases) to conclude. Where parties reside abroad, the duration is likely to be even longer.¹⁴
- (c) Husbands can seek spousal maintenance. The duty to maintain a spouse ceases when the divorce is made final. Additionally, a spouse may be ordered to pay “compensatory allowance / maintenance” to the other spouse to offset the disparity in living standards arising from the divorce.¹⁵

¹³ Affidavit on Foreign Law by Sabrina Cazorla dated 11.08.25 at [11] to [16].

¹⁴ Affidavit on Foreign Law by Sabrina Cazorla dated 11.08.25 at [18] to [21].

¹⁵ Affidavit on Foreign Law by Sabrina Cazorla dated 11.08.25 at [31] to [36], [44] and [45].

- (d) Parents are obliged to maintain their children after the divorce.¹⁶

Whether French courts could exercise jurisdiction over the divorce

- (e) In the present case, the French courts have jurisdiction to rule on the issues of (i) divorce, (ii) maintenance, (iii) division of matrimonial assets, and (iv) arrangements regarding their children. This is because the Wife and the Husband are both French citizens.¹⁷

- (f) That said, the French courts might stay the French proceeding – or even decline to exercise jurisdiction altogether. This is because the Singapore proceeding was initiated – and the divorce papers were properly served on the Husband – *before* the French proceeding commenced. In accordance with the French “rule of chronological priority”, the Singapore proceeding takes precedence over the French proceeding.¹⁸

- (g) The Husband’s decision to commence the French proceeding could be viewed as an attempt at forum shopping given that (i) the Wife had already commenced the Singapore proceeding, (ii) the parties’ entire family had been habitually resident in Singapore for over 10 years, and (iii) the family’s connection with France was confined to their nationality.¹⁹

¹⁶ Affidavit on Foreign Law by Sabine Cazorla dated 11.08.25 at [37] to [43] and [46].

¹⁷ Affidavit on Foreign Law by Sabine Cazorla dated 11.08.25 at [53] to [55], [59], [63], [74], [77] to [79].

¹⁸ Affidavit on Foreign Law by Sabine Cazorla dated 11.08.25 at [22] to [27].

¹⁹ Affidavit on Foreign Law by Sabine Cazorla dated 11.08.25 at [17].

(h) At the date of this judgement, the Wife had applied to the French courts to “withdraw” or “stay” the French proceeding on the basis that the subject of the litigation there was already pending before the Singapore courts. The hearing into that application had been adjourned to 15 November 2025 – to allow the Singapore courts to determine whether the divorce and ancillary matters ought to be heard in Singapore.²⁰

If French courts were to exercise jurisdiction

(i) There would be several implications if the parties’ divorce and ancillary matters were to be adjudicated in France.

(j) *First*, French courts would be legally obliged to apply Singapore law in relation to (1) the divorce,²¹ (2) the award of spousal maintenance,²² (3) the division of matrimonial assets,²³ and (4) the children’s arrangements.²⁴ The French courts would face “practical and legal difficulties” in applying Singapore law as it is foreign to them. The fact that legal experts and affidavits on Singapore family law would have to be secured for the French proceeding can increase the complexity and costs of the proceeding.²⁵

²⁰ Wife’s Supplementary Affidavit dated 17.10.25 at [13] and [14].

²¹ Affidavit on Foreign Law by Sabrina Cazorla dated 11.08.25 at [80] to [85].

²² Affidavit on Foreign Law by Sabrina Cazorla dated 11.08.25 at [86] to [93].

²³ Affidavit on Foreign Law by Sabrina Cazorla dated 11.08.25 at [31] to [36], [44] and [45].

²⁴ Affidavit on Foreign Law by Sabrina Cazorla dated 11.08.25 at [98] to [105].

²⁵ Affidavit on Foreign Law by Sabrina Cazorla dated 11.08.25 at [107].

(k) *Second*, the Husband is likely to obtain a better financial outcome. This is because unlike the fact-centric nature in which matrimonial assets are divided under Singapore law, there is a presumption of equal division of such assets under French law. This presumption may be displaced if there is a contrary agreement.²⁶

Husband's objection

12 The Husband opposed the admission of Ms Sabine's affidavit. He gave the following reasons.²⁷

(a) The Wife had contended that she would be prejudiced in the French proceeding because the Husband could – unlike Singapore – claim for spousal maintenance under French law. This did not constitute sufficient basis for opposing the stay application. She should contest the Husband's claim for spousal maintenance before the French courts – and not before the Singapore courts.

(b) In any event, based on Ms Sabine's opinion, the French Courts could choose to determine the ancillary matters based on Singapore law. If so, the Wife would not be prejudiced in the French proceeding.

²⁶ Affidavit on Foreign Law by Sabine Cazorla dated 11.08.25 at [109] to [112].

²⁷ Husband's Submissions dated 27.08.25 at [64] to [73].

SUM 2290/2025 (“SUM 2290”) – Further Documents

Wife’s application

13 In September 2025, the Wife made a further application to admit the following documents (“**Further Documents**”).²⁸

- (a) The Wife’s papers before the French courts to stay the French proceeding.

According to the Wife, these papers are critical in showing that the French proceeding is not at a more advanced stage than the Singapore proceeding and that it will be a substantial period before these courts render a decision on the parties’ divorce and ancillary matters.²⁹

- (b) A letter dated 17 February 2025 from the Wife’s employers regarding their Long-Term Incentive Plan (“**LTIP**”).

According to the Wife, the purpose of admitting this document is to support her contention that she had joined the board / management / leadership team of her employer and thus her intention to remain in Singapore together with her children for the long term.³⁰

²⁸ Applicant’s Written Submissions for Hearing on 23 October 2025 dated 17.10.25 at [6], [7] and [27].

²⁹ Applicant’s Written Submissions for Hearing on 23 October 2025 dated 17.10.25 at [20].

³⁰ Wife’s Affidavit dated 11.06.25 at [25].

- (c) Information relating to the Wife's savings account and retirement scheme in France.

According to her, it is necessary to admit these documents to rebut the Husband's bare assertions that she planned to retire in France. They show that (i) the savings account was started long before the parties came to Singapore and is modest, and (ii) the retirement scheme may be discontinued in the future.³¹

Husband's objections

14 The Husband objected to the Wife's application, submitting that the Further Documents were not relevant and/or necessary for the determination of the stay proceeding. Further, the evidence in these documents were not new and had been addressed in her reply affidavit earlier.³²

Applicable principles

15 The principles regarding when a party may adduce further evidence during a hearing is well settled.

- (a) *First*, a party has the general right to bring all available evidence *relevant* to his/her case to the attention of the court.
- (b) *Second*, this right is subject to limits. For instance, the evidence must be *necessary* to the disposal of the issues before the court. Its admission should also be in accordance with the rules of procedure and

³¹ Wife's Supplementary Affidavit dated 17.10.25 at [11].

³² Respondent's Further Submissions dated 23.10.25 at [21] to [24].

the Objectives set out in P1, r 4 of the Family Justice (General) Rules 2024 (“**Rules**”).

(c) *Third*, the ultimate question is whether admission of the evidence will serve the interests of justice.

(d) *Finally*, given that grave consequences might flow from the wrongful exclusion of evidence, it is usually both prudent and just to err in favour of admission rather than exclusion.

See e.g., P 1 r 5(2) and 8 r 1(1)(b) of the Rules; *Basil Anthony Herman v Premier Security Co-operative Ltd and others* [2010] 3 SLR 110 at [24] to [26]; *XAD v XAE* [2024] SGFC 54 at [16] to [20]; *XEP v XEQ* [2024] SGFC 95 at [16] and [17]; *XKJ v XKK* [2025] SGFC 35 at [4] to [7].

My decision

16 Applying these principles, I allowed the Wife’s applications to admit further evidence.

(a) *SUM 1884* – Ms Sabine’s affidavit touched on issues that are material to the stay proceedings. These included whether and how French law would apply to the parties’ divorce and ancillary matters. The relevance of such evidence was acknowledged by the Husband’s counsel during the hearing.

(b) *SUM 2290* – The Wife’s papers before the French courts and affidavit were necessary to show the status of the French proceeding. Further, it would be fair to allow her to admit the letter from the Wife’s employers regarding their LTIP and the financial documents so that she

could respond to the Husband's claims that she did not intend to be domiciled in Singapore.

(c) Finally, the admission of the documents in SUM 1884 and SUM 2290 did not prejudice the Husband. These documents were largely objective and factual in nature. Furthermore, he had the opportunity to respond to the contents of Ms Sabrina's affidavit and the Further Documents at the hearing, and did in fact do so in his submissions.

Stay of proceeding – Applicable principles

17 I shall now turn to the main issue in this case – i.e., should the Singapore proceeding be stayed?

Two-stage analysis

18 To answer this issue, I considered the following well-established two-stage analysis in *Spiliada Maritime Corp v Cansulex Ltd* [1987] AC 460 ("*Spiliada*").

(a) Stage 1 – The applicant must show that another forum is "*clearly or distinctly* more appropriate" than Singapore to determine the divorce and ancillary matters. The inquiry is directed at identifying the jurisdiction with which the matter has the most real and substantial connection.

(b) Stage 2 – If the court is satisfied that another forum is clearly more appropriate, then the burden shifts to the respondent to show that there are "*special reasons*" for requiring the matter to be tried in Singapore.

19 Let me elaborate on how our courts have applied the above analysis.

Stage 1 – Whether another jurisdiction is clearly more suitable

High threshold

20 Under Stage 1, the applicant has the burden to prove that a foreign court is “*clearly or distinctly* more appropriate” than a Singapore court to determine the parties divorce and ancillary matters. There are several reasons for this high threshold.

(a) *First*, a stay application invites the Singapore court to abstain from exercising a jurisdiction that it otherwise possesses. Such an abstention – in favour of a foreign court – must therefore rest on compelling reasons.

(b) *Second*, granting a stay may deprive the respondent of access to the Singapore courts for relief. Persons who have resided and integrated in Singapore should not be required to litigate abroad – incurring additional expense and inconvenience – unless the connecting factors, on balance, clearly points elsewhere.

Connecting factors

21 In assessing whether another jurisdiction is clearly more suitable, courts will consider the strength of the factors that connect the parties to the jurisdiction. These factors can be broadly classified into two categories.

(a) *Personal connecting factors*. These include nationality, domicile, and habitual residence of the parties and their children. The place of marriage is ordinarily a neutral factor: *XPI v XPJ* [2025] SGFC

77 (“**XPI**”) at [14]; *XFS v XFT* [2025] SGFC 1 (“**XFS**”) at [43] to [45]; *TPH v TPI* [2016] SGFC 72 (“**TPH**”) at [38].

(b) *General connecting factors.* These include the location of third-party witnesses, evidence, and matrimonial assets.

Connecting factors carry different weight

22 The assessment of whether to allow a stay application is not a mathematical exercise – i.e., the assessment is not to be done by simply comparing the *number* of connecting factors in favour of Singapore and the other jurisdiction. This is because these factors do not carry the same weight in family proceedings.

23 As a general overview, an analysis of the precedents where at least one party to a divorce proceeding is a foreign citizen reveals the following.

(a) The personal connecting factors typically carry greater weight than the general connecting factors. In most cases, the latter plays a secondary role in the assessment of stay applications.

(b) Among the personal connecting factors –

(i) Nationality is typically viewed as the weakest indicator of connection to a jurisdiction.

(ii) Courts tend to give more weight to the party’s place of current habitual residence than to his/her place of domicile.

24 I will now elaborate on the above.

Nationality

25 Nationality is ordinarily considered to be the weakest of the personal connecting factors: *BDA v BDB* [2013] 1 SLR 607 (“**BDA**”) at [29]. There are various reasons for this.

(a) *First*, global mobility has eroded the value of nationality to signify a party’s attachment to a country. In a world of transnational employment and marriages, a party’s nationality often bears little relationship to where his/her family life is centred.

(b) *Second*, dual or multiple citizenships are increasingly common: *BDA* at [29].

(c) *Third*, the weakness of nationality as a connecting factor is also evident from the fact that the Women’s Charter 1960 (“**Charter**”) does not list it as a jurisdictional basis for divorce. Instead, the Charter stipulates domicile and habitual residence as the grounds for exercising jurisdiction. The Charter further provides that “a person who is a *citizen* of Singapore is deemed, until the contrary is proved, to be *domiciled* in Singapore” (emphasis added): see s 93(1) and s 3(5) of the Charter.

Domicile

26 Domicile refers to the country that a party treats as his/her permanent home. It may be one of (a) origin (i.e., acquired at birth based on his/her father’s or mother’s domicile), (b) dependence (this usually applies to minors who take on the domicile of the person that they depend on), or (c) choice: *Peters Roger May v Pinder Lillian Gek Lian* [2006] 2 SLR(R) 381 (“**Peters Roger May**”) at [15] to [25].

27 To establish a domicile of choice, a party must show both (a) actual residence in a country and (b) an intention to reside there permanently or indefinitely: *XPI* at [14]; *XFS* at [43] to [45]; *TPH* at [38].

28 At this juncture, I digress to make the following observations.

(a) *First*, evidence showing whether a party had applied for PR status in Singapore – as well as the explanation for making/not making the application – is a relevant, though not conclusive, indicator of whether he/she has the requisite intention. Let me explain.

(i) An application for PR may indicate a wish to settle long term. On the other hand, there may also be other motivations for the application – e.g., for convenience to facilitate employment, schooling, or property ownership.

(ii) The decision not to apply for PR may stem from practical considerations, e.g., the party does not want to go through the inconvenience of the application. Thus, the failure to apply for PR does not necessarily negate the intention to settle in Singapore indefinitely.

(b) *Second*, domicile can be a less reliable indicator of the most appropriate forum to hear a divorce application. These are my reasons.

(i) *Evidential*. Intention to reside permanently is subjective and must be inferred from conduct and statements. Such evidence is often equivocal or self-serving. Further, intentions can also shift rapidly with changing and unexpected circumstances.

(ii) *Practical*. It is settled law that domicile of origin is retained until displaced. This may lead to artificial results. A person may have lived and worked in Singapore for many years yet remain legally domiciled elsewhere simply because the intention to remain indefinitely cannot be proved to a high degree of certainty.

(iii) *Conceptual*. Domicile looks backward to a party's attachment to a place *historically* (domicile by origin) or in the *distant future* (domicile of choice). This analysis is conceptually difficult to apply when dealing with stay applications which require an assessment of where that party's family life is centred *presently* and in the *foreseeable future*.

Habitual residence

29 Next, I turn to habitual residence. A person is habitually resident in a place if he/she has voluntarily and continuously lived there for one or more “settled purposes” such as employment, education, or family life: *Lee Mei-Chih v Chang Kuo-Yuan* [2012] 4 SLR 1115 (“*Lee Mei-Chih*”) at [6] to [8].

30 The indicators of a “settled purpose” include the following:

- (a) *Immigration status*. The fact that a person is applying for PR status, long-term visit pass, or employment pass indicates his/her legal intention to continue living in Singapore for a sustained duration.
- (b) *Employment*. A stable, ongoing source of livelihood in Singapore is a strong indicator of habitual residence. Conversely, short-

term consultancy work, remote overseas postings, or roles tied to a fixed project timeline indicate transience.

(c) *Family*. When a person’s immediate family – particularly his/her spouse and children – are settled in Singapore, this can be a powerful indicator of habitual residence.

(d) *Education*. Other factors that can indicate whether a party intends to remain in Singapore for some time include his/her *choice* of school for the children (e.g., whether they are enrolled in a local school or an international school). His/her *reasons* for the choice – e.g., enrolling the children an international school because of his/her distrust in local pedagogy, desire to reflect a certain socio-economic status, or lack of priority in a local school – is also a relevant consideration.

(e) *Housing*. The fact that a party has secured long-term housing arrangements – whether ownership or extended leases – can also indicate a desire for sustained residence in Singapore.

31 At this stage, the following points bears highlighting.

(a) *First*, it is important to distinguish between the assessment of whether a party is habitually resident in Singapore for the purpose of determining (1) stay applications and (2) divorce applications.

(i) The former scenario involves a forward-centric inquiry – i.e., whether the party is likely to continue residing in Singapore *in the future*.

(ii) The latter scenario, on the other hand, is a backward-centric inquiry. In marriages where both parties are foreign

citizens, Singapore courts will have jurisdiction to hear divorce applications only if either of them has been “habitually resident in Singapore for a period of 3 years *immediately preceding* the commencement of the proceedings”: s 93(1)(b) of the Charter.

(b) *Second*, unlike domicile, habitual residence does not require proof of an intention to stay permanently. Residence may be “habitual” even if intended for a fixed term: *Lee Mei-Chih* at [6] to [8]. Thus, a person may be said to be habitually residing in Singapore even if he/she (i) intends to return to his/her country of origin after the employment here ends, or (ii) has not obtained Singapore PR status: *WJK v WJL* [2022] SGFC 85 at [26] to [28].

(c) *Third*, in the context of stay applications, the jurisdiction where the parties’ children are located *currently and in the future* is clearly better suited to deal with issues relating to their custody, care, control, access, and maintenance. This is because that jurisdiction –

(i) Will have a better understanding of the social norms and environmental factors in the children’s upbringing and what is in their best interests and welfare: *XLV v XLW* [2025] SGHCF 35 (“*XLV*”) at [46]; *Low Wing Hong Alvin v Kelso Sharon Leigh* [1999] 3 SLR(R) 991 (“*Low Wing Hong*”) at [20]; *USE v USF* [2019] SGFC 8 (“*USE*”) at [12]; *Re A (an infant)* [2002] SGHC 60 at [4]; *TDX v TDY* [2015] 4 SLR 982 (“*TDX*”) at [15]; *WYZ v WZA* [2024] SGFC 68 at [17], and

(ii) Can also obtain evidence directly and expeditiously from the children to deal with his/her care, control and other issues. This may be contrasted with the case where the children are in

another jurisdiction. In the latter case, there may be a need to seek the permission and assistance of that jurisdiction to conduct a child interview or prepare a child evaluation report.

Habitual residence carries greater weight

32 Given [28] and [31(c)] above, a party's place of habitual residence clearly has advantages – when compared to domicile – as a consideration for assessing stay applications.

33 Indeed, Singapore courts have recognised habitual residence to be a significant factor in assessing stay applications: see, e.g., *Lee Mei-Chih* at [5] and [6]; *XLV* at [37] to [40]; *Helen Diane Womersley v Nigel Maurice Womersley* [2003] SGDC 186 (“**Womersley**”) at [11]. The precedents suggests that where habitual residence and domicile conflict, the former tends to carry greater weight in determining stay applications: **Annex A**.

General connecting factors

34 I now turn to the general connecting factors. By themselves, these factors are seldom decisive in determining a stay application: see e.g., *VXK v VXL* [2021] SGFC 117 (“**VXK**”) at [22]. These are the reasons.

Location of third-party witnesses

(a) The fact that third-party witnesses are overseas is often a neutral factor because the parties can often rely on documentary evidence – instead of testimonial evidence from such witnesses – to establish their case. Even if testimonial evidence from overseas witnesses is needed, such evidence can frequently be adduced via teleconferencing

technology: *Peters Roger May* at [26] and [39]; *CIMB Bank Bhd v Dresdner Kleinworth Ltd* [2008] 4 SLR(R) 543 at [69]; *TED v TEE* [2015] SGFC 90 at [25]; *TAR v TAS* [2015] SGFC 23 (“**TAR**”) at [27] and [28]; *XPI* at [12]; *WFU v WFV* [2022] SGFC 67 (“**WFU**”) at [77].

Location of evidence

(b) A party can apply for discovery and interrogatories to obtain evidence that is located overseas. If the other party fails to disclose material evidence, an adverse inference may be drawn against him/her: *XLV* at [52].

Location of matrimonial assets

(c) Finally, the fact that matrimonial assets are located overseas have not precluded from Singapore courts in exercising their power to divide such assets: *XLV* at [52].

Stage 2 – Whether there are special reasons for denying a stay

35 I now turn to Stage 2 of the *Spiliada* analysis. At this stage, the burden shifts to the respondent to show that substantial justice requires that the proceedings remain in Singapore even if another forum appears more appropriate.

36 In assessing whether the requirement in Stage 2 is met, the following bear emphasis.

(a) *First*, the mere fact that a respondent may lose a juridical or procedural advantage if a stay is granted does not amount to a denial of justice: *Rappo, Tania v Accent Delight International Ltd* [2017] 2 SLR

265 (“**Rappo**”) at [109]. For examples where this principle has been applied, see the following:

- (i) Where Singapore law allows child maintenance until age 21, whereas the foreign law limits it to age 18: *TGT v TGU* [2015] SGHCF 10 (“**TGT**”) at [54], [58] and [59].
 - (ii) Where a particular remedy is available in Singapore but not abroad: *Rappo* at [109] to [111].
 - (iii) Where discovery and cross-examination procedures exist in Singapore but not in the foreign forum: *Best Soar Ltd v Praxis Energy Agents Pte Ltd* [2018] 3 SLR 423 at [33].
 - (iv) Where proceedings may be concluded more quickly in Singapore: *Mala Shukla v Jayant Amritanand Shukla* [2002] 1 SLR(R) 920 (“**Mala Shukla**”) at [60]; *Sanjeev Sharma s/o Shri Sarvjeet Sharma v Surbhi Ahuja d/o Sh Virendra Kumar Ahuja* [2015] 3 SLR 1056 (“**Sanjeev Sharma**”) at [50].
 - (v) Where a party may face arrest in the foreign jurisdiction: *Sanjeev Sharma* at [51] to [53].
 - (vi) Where the party must expend time, effort, or expense to commence fresh proceedings overseas: at *WFU* at [86].
- (b) *Second*, in keeping with the principle of international comity, Singapore courts will be slow to find that a respondent will be denied substantial justice in the foreign jurisdiction. This is especially so if that jurisdiction operates a well-established and reputable legal system:

Rappo at [110]; *The “Reecon Wolf”* [2012] 2 SLR 289 at [54]; *TGT* at [58] to [61].

My decision

37 Having summarised the principles, I shall apply them to the present case.

Place of domicile

Parties’ submissions

38 To re-cap –

(a) The Husband’s stay application rested primarily on the parties’ domicile. He submitted that because both parties are French citizens, France was their domicile of origin. This domicile has not been displaced, and French courts were therefore the more appropriate forum.

(b) The Wife argued that France was no longer her domicile of origin as Singapore was her domicile of choice.

Wife is residing in Singapore

39 To establish a domicile of choice, the Wife must prove two elements: (a) that her residence in Singapore is not temporary or transitory, and (b) that she intends to make Singapore her home permanently or indefinitely.

40 The first element is clearly satisfied. The Wife had resided continuously in Singapore for the past ten years and remains here at the date of this judgment. Her employment, residence, and family life are all based in Singapore. Her presence here is clearly not transient.

Wife failed to prove requisite intention

41 The difficulty with the Wife's case lies in the second requirement – i.e., whether she has formed a settled intention to make Singapore her permanent home. I find the evidence on this to be equivocal.

(a) The most significant evidence supporting an intention to reside in Singapore permanently is the Wife's purchase of a Manulife endowment and retirement plan ("**Manulife Plan**") in 2021. Under this plan, she undertook to pay premiums for ten years and to receive payouts in Singapore dollars from age 60 for a twenty-year period (2042–2062).³³

(b) The weight of the Manulife Plan is however weakened by the following.

(i) The Husband contended that the Wife had purchased the Manulife Plan only because a similar product was unavailable in France.³⁴

(ii) It is not disputed that the Wife can receive payouts under the plan even if she were to return to France.

(iii) The Wife continues to contribute to a French social-security scheme that includes a retirement pension.³⁵ This can suggest that she intends to retire in France.

³³ The retirement plan is annexed in the Wife's Affidavit dated 11.06.25 at page 39.

³⁴ Husband's Affidavit dated 24.06.25 at [14] to [16].

³⁵ Further documents filed by the Wife on 07.10.25 at page 18.

(iv) The children are enrolled in the International French School under the French curriculum. The Husband claimed, without rebuttal by the Wife, that this is to facilitate the children's reintegration into the French educational system if needed.

(v) The Wife did not apply for PR status in Singapore,³⁶ claiming that she would accept PR "if offered". Neither did she provide an explanation for failing to apply for PR.

(c) Taken cumulatively, the factors in (b) above may suggest that the Wife has not yet formed a settled intention to make Singapore her permanent home.

42 For completeness, I find the fact that the family has lived in rented premises for the past decade to be a neutral factor on whether the Wife has made Singapore her permanent home.

(a) *First*, while home ownership can suggest an intention to remain in a jurisdiction permanently, its absence is not determinative. This is because home ownership in Singapore is costly and subject to eligibility restrictions.

(b) *Second*, the Wife explained that she had been saving to purchase an apartment.³⁷ Her explanation has not been contradicted by evidence to the contrary.

³⁶ Respondent's Submissions dated 27.08.25 at [48] to [50].

³⁷ Wife's Affidavit dated 11.06.25 at [21].

Place of habitual residence

43 Next, I considered whether the Wife and the children are habitually resident in Singapore for the purpose of the stay application.

44 In this regard, it is common ground that the parties and their children have been habitually resident in Singapore for the past 10 years.³⁸ The issue is whether the Wife and the children are likely to continue to be habitually resident in Singapore for the foreseeable future.

45 The Husband contended that the answer is “no” because the family’s continued residence in Singapore depends on the Wife’s employment, and the employment “can cease at any time”.³⁹

46 I am unable to accept the Husband’s contention. In my view, a party may be found to be habitually resident in Singapore even if his/her right to remain here is conditional on employment that may, in theory, be terminated. Let me elaborate.

(a) The Husband’s contention effectively means that a foreigner can be said to be habitually resident in Singapore only if there is no risk of him/her being terminated whatsoever. I find this to be unreasonable and contrary to case law. To establish habitual residence, the law requires only that the party intends to remain in a place for one or more settled purposes. Such a purpose includes employment: see [30(b)] above. There is *no additional requirement* that the person must also possess a

³⁸ Husband’s Submissions dated 27.08.25 at [17].

³⁹ Respondent’s Further Submissions dated 23.09.25 at [3] to [5]; Husband’s Affidavit dated 27 May 2025 at [18].

legal right to remain permanently. Indeed, under Art 13 of the Constitution of the Republic of Singapore, only Singapore citizens enjoy an absolute right of abode.

(b) If the mere possibility of job termination is sufficient to negate habitual residence, then no foreigner can ever be said to be habitually resident in Singapore, however settled his life in this country may be. That outcome is both unrealistic and contrary to established jurisprudence.

47 In my view, the evidence clearly shows that the lives of the Wife and the children will remain to be centred in Singapore for the foreseeable future.

The Wife

(a) *First*, the Wife currently holds a well-paying job and is in a senior management position. There is no evidence of her having an intention to resign. Neither is there any evidence that she will be transferred to the sister company in France: see [8(c)(ii)] above.

(b) *Second*, the Wife had subscribed to the Manulife Plan in 2021. Under the plan, she undertook to pay premiums for ten years. She has done so for the past four years and remains bound for another six. This long-term financial commitment, denominated in Singapore dollars, reflects an intention to remain anchored here for a significant period.

The children

(c) *Third*, it is unlikely that the Wife will uproot the children and relocate them to France anytime soon.

(i) The children are schooling in Singapore. Their education is likely to anchor both them and the Wife in Singapore for the foreseeable future.

(ii) This is especially so for the older child, aged 16, who is currently enrolled in the international baccalaureate programme. He will complete the programme only until 2027.

(iii) Finally, it is also unlikely that the children will relocate to France to live with the Husband. He has only recently resettled in there and is still seeking stable employment.

48 To sum-up, on the totality of the evidence, I find that the Wife and the children will continue to be habitually resident in Singapore for the next several years.⁴⁰

Whether France is clearly or distinctly a more appropriate forum

Findings

49 Given my finding in [47] and [48], as well as the considerations in [28] and [31] to [33] above, I am of the view that the Husband has failed to demonstrate that France is *clearly or distinctly more appropriate* than Singapore to determine the divorce and ancillary matters.

50 This view is reinforced by the following.

(a) *First*, a key part of the divorce hearing will involve looking into issues such as the children's needs as well as how the parties will be able

⁴⁰ Applicant's Further Written Submissions dated 06.10.25 at [8], [18], [21].

to care for and maintain them. The parties' employment and financial circumstances will be important factors in this regard. Three of the four persons who can provide material evidence on these issues – the Wife and the two children – are residing in Singapore. This is a consideration that can further tip the balance in favour of the Singapore courts determining the divorce issues.

(b) *Second*, Ms Sabrine's opinion is that even if the French courts were to hear the divorce, they would be obliged to apply Singapore law: see [11(j)] above. The Husband did not dispute this opinion.⁴¹

(i) Given the above, it is plainly counter-intuitive to stay the Singapore proceeding. At risk of stating the obvious, Singapore courts are better placed to apply Singapore laws.

(ii) Furthermore, if the Singapore proceeding is stayed, both parties will have to adduce expert evidence on Singapore law before the French courts. This will increase costs and prolong the proceedings there. This is not in either party's interest. This is especially so for the Husband, as it is unclear whether he can afford such costs given that he is still seeking stable employment.

Other points

51 For completeness, I will address two other points.

52 *First*, I found that the location of matrimonial assets is a neutral factor in this case. It is undisputed that the parties do not own immovable property in

⁴¹ Respondent's Further Submissions dated 23.09.25 at [12].

either Singapore or France. Additionally, the mere fact that the parties held savings plans and a life insurance policy in France⁴² does not, on its own, establish that the French courts is the more appropriate forum.⁴³ The Husband has not explained why the Singapore courts will be unable to deal with such assets.

53 *Second*, the Husband submitted that France is the more appropriate forum because enforcement of maintenance orders would be easier there, since his income and assets are in that jurisdiction. To support his submission, he cited from *BDA* where – according to the Husband – the High Court “placed significant weight on where the payer-husband was residing and working at the material time (i.e. Singapore)”.⁴⁴ I am not persuaded by the Husband’s submission. *One*, it is speculative what form of maintenance order, if any, will ultimately be made against the Husband. *Two*, the Husband’s reliance on *BDA* is unmeritorious.

(a) There is nothing in the judgement to show that the High Court there had set aside the stay application imposed by the district court because the husband was working and resident in Singapore.

(b) In fact, it appears from [33] of its judgement that a key reason why the High Court had set aside the stay application is that the wife and the son *had been residing* in Singapore and *intended to return to live in Singapore*. (She was apparently in India at the time of the hearing.) This supports the view that the place of habitual residence is an important consideration on whether to stay a divorce proceeding. In the

⁴² Husband’s Affidavit dated 27.05.25 at [8] and [21].

⁴³ Husband’s Submissions dated 25.08.25 at [62].

⁴⁴ Respondent’s Further Submissions dated 23.09.25 at [6] to [10].

present case, the evidence shows that the Wife and the children will be staying in Singapore for the foreseeable future.

Conclusion

54 For the above reasons, I find that the Husband had failed to prove that France is “clearly or distinctly more appropriate” than Singapore to adjudicate the parties’ divorce and ancillary matters. The Wife should not be denied access to the Singapore courts.

55 Given the above finding, there is no need for me to proceed to Stage 2 of the *Spiliada* analysis.

56 Accordingly, I dismissed the Husband’s application.



Kow Keng Siong

District Judge

Nurul Nabilah & Rebecca Chia (M/s JCP Law LLC) for the Husband;
Sukhmit Singh & Isabel Ho (M/s Damodara Ong LLC) for the Wife.

ANNEX A

HABITUAL RESIDENCE AND STAY APPLICATIONS

1 Examples where the care-giver parent and children were *habitually resident* in Singapore at the time of the judgement – Stay application dismissed.

(a) *TAR* – The wife (Indian citizen) and her six-year-old child (British citizen) had been residing in Singapore for about four years. The wife was on employment pass and the child (on dependant pass) was attending an international school. The husband (British citizen) was residing in Nigeria. *Held*. Singapore was the family’s habitual residence: at [3], [15], [21], [24] and [25].

(b) *VH v VI* [2008] 1 SLR(R) 742 – The husband (Swedish citizen), wife (French citizen), and their children (Swedish citizens) were residing in Singapore. Both parents were Singapore PRs, and the children attended international schools here. *Held*. Singapore was their settled base: at [22] and [29].

2 Examples where the family was residing in Singapore but had intended to leave the country at the time of judgement – Stay application granted.

(a) *TEO v TEP* [2014] SGDC 243 – The parties and their children (aged 5 and 3) were German citizens. The husband was in Singapore on an employment pass, and the wife and children were on dependant passes. At the time of judgment, the wife had firm plans to return to Germany with the children: at [1], [3], [4], [11] and [15].

(b) *VXK* – The parties and their child were Japanese citizens. The husband (on employment pass) and child (on dependant pass) lived in

Singapore, while the wife resided in Japan. Although the family had lived in Singapore for five years, they had always intended to return to Japan and for the child to continue schooling there: at [4], [7], [20] to [24].

(c) *TRW v TRX* [2016] SGFC 109 – The husband (German citizen) and wife (Japanese citizen) had a seven-year-old child holding dual citizenship. The husband (on employment pass) and the child (on dependant pass) were in Singapore; the wife’s location was uncertain. Both parties had previously expressed plans to return to Japan: at [13], [19] to [21] and [24].

3 Examples where the care-giver parent and his/her child(ren) were *not residing* in Singapore at the time of the judgement – Stay application granted.

(a) *Low Wing Hong* – The wife (Australian citizen) and four-year-old child (eligible for Australian citizenship) were residing in Australia. The husband was a Singapore citizen remained in Singapore: at [17], [18] and [20].

(b) *USE* – The parties and their children (aged 5 and 8) were Indian citizens. The wife and children were residing in India while the husband worked in Singapore: at [2] and [12].

(c) *Womersley* – The parties and their children (aged 17 and 13) were British citizens. The wife and children were living in the United Kingdom, while the husband was working in Batam, Indonesia: at [1], [11] to [14].

(d) *Mala Shukla* – The parties and their children (aged 17 and 12) were Indian citizens. The wife and children resided in India. Although

the husband held Singapore PR status, he appeared to be living in India at the material time: at [2], [30], [31], [52], [55] and [56].