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Eugene Tay
District Judge
29 October 2025

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE
[2025] SGFC 116

Divorce No. 1949 of 2024
HCF/DCA 108 of 2025

Between

XTQ

... Plaintiff

And

XTR

... Defendant

GROUND OF DECISION

[Family Law] – [Judicial Separation]

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**XTQ
v
XTR**

[2025] SGFC 116

Family Court — Divorce No. 1949 of 2024
District Judge Eugene Tay
14 May 2025, 28 August 2025

29 October 2025

District Judge Eugene Tay

Introduction

1 This is the Defendant husband's appeal against my decision to grant a judgment of judicial separation for the Plaintiff wife on 28 August 2025.

Background facts and proceedings

2 Parties were married on 25 January 2004 in India. There are no children to the marriage. At the time of the hearing, parties were both 49 years of age, and the Plaintiff was residing in Singapore while the Defendant was residing in the United States of America ("US").

3 On 29 April 2024, the Plaintiff filed an application for judicial separation on the basis that the marriage has irretrievably broken down in that

the Defendant has behaved in such a way that she could not reasonably be expected to live with him.

4 On 9 July 2024, the Defendant filed an application for stay of the proceedings on the grounds of *forum non conveniens* in FC/SUM 2145/2024 (“SUM 2145”) on the basis that India is the more appropriate forum to determine the dissolution of the marriage. SUM 2145 was subsequently dismissed on 18 November 2024.

5 Thereafter, the Defendant filed his Defence on 2 December 2024, and the Plaintiff filed her reply on 16 December 2024. Parties subsequently filed their respective Affidavits-of-Evidence-in-Chief (“AEIC”) on 4 March 2025, and the matter was fixed for trial.

6 The trial took place on 14 May 2025. Apart from parties’ respective AEICs, the Plaintiff relied on an additional set of documents of 306 pages containing parties’ chat history (“PS1”), which the Defendant did not object to. After the trial, parties were directed to file and serve written submissions.

7 On 28 August 2025, I delivered my decision and granted a judgment of judicial separation. After hearing parties on costs, I ordered the Defendant to pay the Plaintiff costs of the trial fixed at \$8,000.00 (all-in). I also directed parties to file and exchange their respective Affidavits of Assets and Means (“AOM”) by 9 October 2025, with a window period until 11 September 2025 for parties to correspond with each other on whether to attend mediation and/or for the AOMs to be held in abeyance, and for the matter to be fixed for a case conference for parties to seek the necessary directions from the Court.

8 On 11 September 2025, the Defendant filed a Notice of Appeal against the whole of my decision. The grounds for my decision are set out below.

Plaintiff's Case

9 In the Plaintiff's AEIC, she summarised the incidents where she claimed the Defendant had behaved unreasonably, as follows:

- a. His failure to appreciate her efforts and sacrifices in the marriage and led to her feeling undervalued and neglected;
- b. His denial of her repeated requests for physical intimacy and affection;
- c. His deliberate attempt to exclude or remove himself from her; and
- d. His secretive behaviour which led to mistrust between the parties.

10 In the Plaintiff's Closing Submissions, the Plaintiff stated that her case for the Court to grant the judgment for judicial separation is based on the Defendant's unreasonable behaviour as follows:

- a. The lack of physical intimacy in the marriage, due to his refusal to respond to her repeated requests for intimacy and affection;
- b. His failure to prioritise spending time with her which caused her to feel hurt and unwanted;
- c. His deliberate attempt to exclude or remove himself from her; and
- d. His secretive behaviour towards her.

11 The Plaintiff also submitted that the Defendant's overall conduct throughout this case demonstrates how he consistently misled her into believing that their marriage remained intact, when to his mind, he considered parties to have been separated in November 2018.

Defendant's Case

12 The Defendant denied the Plaintiff's allegations and submitted that she had not proven her case. While he agreed that the marriage has broken down, he denied that it was due to his unreasonable behaviour. He claimed that she is making false allegations of his unreasonable behaviour to gain a tactical advantage in the ancillary matters.

13 The main thrust of the Defendant's defence is that parties have been separated since 2018, and this serves as an important backdrop to the state of parties' relationship from then onwards. He claimed that parties have been separated since 2018 and no longer behaved as a married couple since. As such, it is understandable that their relationship and interactions with each other since 2018 would not be one that is typical for a married couple.

Applicable Law

14 Under section 101(1) of the Women's Charter ("WC"), either party to a marriage may apply for judicial separation on the ground and circumstances set out in then-section 95(3) of the WC¹, and then-section 95 of the WC² applies (with the necessary modifications) in relation to an application for judicial separation as they apply to an application for divorce.

15 The main issue in this case is whether the Plaintiff has proven on balance of probabilities that the Defendant has behaved in such a way that she cannot reasonably be expected to live with him.

¹ Now section 95A

² Now sections 95 and 95A

16 Case authorities³ have established that the question whether the Plaintiff finds it intolerable to live with the Defendant must be answered subjectively, and in dealing with behaviour, the question is whether the Plaintiff can reasonably be expected to live with the Defendant. It is for the Court to answer this, using an objective test, having regard to the personalities of the individuals before it. The Court must also look at behaviour by taking into account the cumulative effect of the behaviour, and any conduct, active or passive constitutes behaviour.

17 In *Elements of Family Law in Singapore* by Leong Wai Kum (“*Elements*”), the learned author suggested that the understanding of whether the marriage has irretrievably broken down need not be as rigorous for an application for judicial separation since the relief does not involve the termination of the marriage with finality, as compared with a divorce which terminates the marital relationship with finality⁴.

18 In the Family Court case of *USC v USD* [2019] SGFC 6 (“*USC*”), the Court adopted the aforesaid approach proposed in *Elements*, and took the view that there should be greater allowances for a judgment of judicial separation (compared to divorce) as a judicial separation is, loosely speaking, a step below divorce⁵. The Court in *USC* also took the view that adopting a less stringent threshold meant doing so in terms of the impact of the alleged unreasonable behaviour, and that once the Court is satisfied that a plaintiff’s contentions are established, the Court should be more inclined to grant a plaintiff’s application for judicial separation⁶.

³ *Wong Siew Boey v Lee Boon Fatt* [1994] 1 SLR(R) 323 at [8] and [13]

⁴ *Elements* at [6.020]

⁵ *USC* at [54]

⁶ *USC* at [55]

19 Finally, under sections 139E and 139F of the WC, the Court is to consider the possibility of reconciliation between parties.

Decision

Whether parties had separated since 2018 and lived separate lives

20 I first deal with the Defendant's claim that parties have been separated since 2018, which is the main thrust of his Defence, as this will have a bearing on how the Court should view incidents and/or the Defendant's alleged behaviour in determining whether he has behaved in such a way that it is unreasonable for the Plaintiff to continue living with him.

21 The Defendant cited various factors⁷ to refute the Plaintiff's assertion given during the trial that parties had gradually reconciled after a trial separation period starting from June 2018 and had behaved like a normal couple. These factors included the following:

- a. Parties selling the matrimonial home and decoupling their assets in 2019;
 - b. Living under a pretence towards the Plaintiff's family in India in 2021;
 - c. Lack of holidays between 2019 to 2023;
 - d. Discussion about lawyers and parents in 2022;
 - e. No celebration of anniversary in 2023;
 - f. The Defendant's declaration to his employer in the US in December 2022 that he was single, and that the Plaintiff knew about this declaration;
 - g. That the Plaintiff (allegedly) had no intention to live with him in the US;
- and

⁷ Paragraph 15 of the Defendant's Written Submissions

h. The Defendant's romantic relationship with others between 2018 to 2023 (which the Plaintiff is aware of).

22 The Defendant also submitted that the chatlogs from 2020 to 2023 (in PS1) containing the communication between parties showed that their relationship was a platonic one, more akin to friends than a married couple.

23 The Plaintiff submitted that the nature and frequency of parties' exchanges and ongoing interactions goes far beyond casual or obligatory communication and reflects the engagement and familiarity in an active relationship, rather than a couple on the path to separation. She also submitted that while it is undisputed that parties have been living separately, the evidence suggests a lack of clear intention from either party to formally separate; on the contrary, their actions and interactions indicate an ongoing connection that does not align with a definitive separation up until December 2023. She also stated that even after January 2023, parties continued to update each other on their lives and communicated on random and mundane things on a regular basis, which went beyond minimal or necessary communication for a couple who had allegedly separated.

24 From the evidence, the manner in which parties had conducted themselves and treated and communicated with each other since the initial trial separation in June 2018 gave rise to questions and ambiguity whether they had remained separate and no longer regarded each other as spouses, or whether they had after the trial separation reconciled and carried on their relationship as a married couple.

25 Having considered the evidence, my findings are as follows:

- a. It is firstly undisputed that parties have been living separately;
- b. It is also not disputed that parties decided to have a 3-month trial separation starting from June 2018;
- c. The frequency, nature and contents of parties’ contacts and communication (as can be seen from the history of messages between parties in PS1) would go beyond mere platonic friendship, and would instead be more consistent with and indicative of the fact that parties were still interacting and functioning as a married couple after the trial separation;
- d. The Plaintiff is aware that the Defendant is seeing and living with another woman during the period of alleged separation and seemed quite prepared to accept this, so long as she (the Plaintiff) remained and retained her status as his wife. The fact that the Defendant was seeing someone else during this period does not necessarily mean (at least in the Plaintiff’s mind) that parties are formally separated and no longer regarded or conducted themselves as husband and wife;
- e. Even if the Defendant believed in his mind that parties had separated and were only platonic friends, the regularity, frequency and nature of his interactions and communications with the Plaintiff and his failure to draw clear boundaries and/or clarify the status of their relationship would have led to her having the belief and be under the impression that their relationship after the trial separation had resumed as husband and wife. For example, he did not correct her on at least three (3) separate occasions on 17 January 2022, 28 September 2022 and 2 October 2022 when she referred to herself as “wife”⁸. He also did not correct her on 28 May 2021 when she told him that he was the

⁸ Page 55 (17/01/2022, 22:27), page 56 (17/01/2022, 22:37), page 120 (28/09/2022, 07:07) and page 124 (02/10/2022, 22:13) of PS1

beneficiary for her ICICI account and that it was wrongly written “wife” and that he should be “husband”⁹.

26 Finally, the Defendant also testified during the trial that even after November 2018, parties (according to him) were moving towards a separate relationship even in 2020, 2021 and 2022. This is inconsistent with his claim that parties were separated by November 2018 and there was no marital relationship. His subsequent attempt to explain that this was a reinforcement of the separation in 2018 was unconvincing and somewhat contrived. All it did was to weaken his claim that parties were separated after November 2018. If indeed parties were already separated by November 2018, there would have been no need to “move towards” a separate relationship.

27 Overall, on balance, I found that after the trial separation in 2018, parties had thereafter behaved and conducted themselves and treated each other in a manner more consistent as spouses in an existing marriage, instead of individuals who had separated and were merely platonic friends. I accepted the Plaintiff’s submission that while it is undisputed that parties have been living separately, the evidence suggests a lack of clear intention from either party to formally separate. Following from this, I found that parties were not actually separated after the trial separation, and still behaved and interacted and conducted themselves as spouses.

28 In light of this finding, I now move on to deal with the Plaintiff’s specific allegations of the Defendant’s unreasonable behaviour.

⁹ Page 283 (28/05/2021, 22:35) of PS1

Lack of physical intimacy due to the Defendant's refusal to respond to the Plaintiff's repeated requests

29 The Plaintiff alleged that the Defendant had refused her requests for physical intimacy since 2012. However, there is lack of evidence to support her claims that she had repeatedly requested physical intimacy from the Defendant and that he had repeatedly denied her requests, in particular from 2012 to 2014. In addition, the Plaintiff acknowledged during the trial that there were little opportunities for parties to be intimate since they lived in different countries since 2014. She also testified that parties did not show much romantic behaviour after marriage, as they were not “that kind of people”.

30 Overall, I found the Plaintiff's allegation that she had made repeated requests for the Defendant for physical intimacy and that he had repeatedly denied her requests to be unproven. I did not think that lack of physical intimacy between parties could be attributed solely to the Defendant, let alone that this would constitute unreasonable behaviour on his part.

The Defendant's failure to prioritise spending time with the Plaintiff, causing her to feel hurt and unwanted

31 The Plaintiff alleged that the Defendant failed to prioritise spending time with her, causing her to feel hurt and unwanted. She cited two (2) incidents in support of her allegation. The first is the Defendant's refusal to make a brief stop-over in Singapore during his trip to India in April 2022 to visit his mother on his way back to Japan (“First Incident”). The second is the Defendant not meeting the Plaintiff in the Philippines in September 2022 (“Second Incident”).

32 For the First Incident, the Whatsapp messages the Plaintiff had relied on¹⁰ were only extracts and did not show a more complete picture of parties' communication at the material time. In particular, there were no messages exhibited showing when the Plaintiff had requested the Defendant to make a detour to Singapore on his way back to Japan after visiting his mother in India. The extract of the messages only provided a brief screenshot of the Defendant informing the Plaintiff of his travel schedule from 8 April 2022 to 3 May 2022, and the Plaintiff acknowledging that he would not come back to Singapore on his way back. If the Defendant had already booked his flights prior to the Plaintiff making the request for him to make a detour to Singapore, I did not think he can be faulted for not acceding to her request. Further, it is not clear from the messages that the Plaintiff had communicated her feelings and/or expressed her disappointment to the Defendant of his failure to visit her in Singapore in April 2022.

33 For the Second Incident, while the Plaintiff may have felt disappointed, suffice to say it appeared from the Whatsapp messages¹¹ that the fact that parties did not meet in the end was essentially due to miscommunication and scheduling, instead of the Defendant not prioritising spending time with her.

34 Insofar as the Plaintiff relied on these two (2) incidents in April 2022 and September 2022 of the Defendant not meeting her, it is insufficient for me to arrive at the conclusion that he had failed to prioritise spending time with her by not meeting her in those two (2) occasions.

35 At this juncture, I pause to note what the Plaintiff had testified in Court when asked why it took her so many years to file the present application when

¹⁰ Page 173 of the Plaintiff's AEIC

¹¹ Page 121 of PS1

the marriage has not been really good since 2009. She had testified that the issues that happened since 2009 onwards were “ups and downs of marital life” and were “not enough to warrant a divorce”, and that it was in “2023, 2024 when things escalated out of hand”. Pertinently she admitted that if the 2023, 2024 incidents did not happen, it was possible she might not have filed this application. She further stated that the 2023 incident is the Defendant refusing to apply for a US dependent pass visa for her and deceived her.

36 In my view, it can be inferred that the incidents and the Defendant’s behaviour prior to the issue relating to the US visa application in 2023 would not by themselves have been behaviour that had affected the Plaintiff such that it would compel her to apply for judicial separation or divorce.

The Defendant’s deliberate attempt to exclude or remove himself from the Plaintiff

37 The Plaintiff’s allegation of the Defendant’s deliberate attempt to exclude or remove himself from her essentially relates to his refusal to have her join him in the US in 2023, specifically not proceeding to apply for US dependent pass visa for her.

38 I noted the Defendant did not outrightly refuse the Plaintiff’s request for him to apply for a US visa for her by telling her that they are separated and no longer considered husband and wife. Rather, he gave various reasons, including settling accommodation, buying a car and catching up with work. It was apparent that from January 2023 to June 2023, he did not explicitly make it clear to the Plaintiff that he was not going to support her visa application. When asked during the trial if he agreed that he never told the Plaintiff from January 2023 to June 2023 that he was not going to support her application, the Defendant

responded by saying he did not explicitly say that, and that parties were already separated, and he did not believe in a paper marriage.

39 However, it was telling that the Defendant admitted under cross-examination that even in August 2023, he was giving the Plaintiff the impression that both of them were working on the method to get the Plaintiff a US visa. He also admitted that after he had filed for divorce in India on 5 August 2023, he continued to engage the Plaintiff about trying to apply for the US visa for her, and did not inform her of the divorce he had filed in India.

40 In my view, the aforesaid behaviour by the Defendant would have led the Plaintiff to have the belief and expectation that parties were planning for her relocation to the US as a married couple and that the Defendant would apply for US dependent pass visa for her, when in fact, he did not have the sincere or genuine intention to do so. As such, I considered the Defendant to have misled the Plaintiff as regards his real reasons for not applying for US visa for her.

41 I should state that I did not see the Defendant's actions and behaviour as regards the US visa application primarily as deliberately excluding or removing himself from the Plaintiff per se. Rather, I saw this as the Defendant misleading and giving the Plaintiff false expectation and hope that she would be able to relocate to the US to be with him and that parties (him in particular) were working on this. This continued until as late as early August 2023 when the Defendant filed for divorce in India.

42 Ultimately, I accepted that the Defendant's actions and behaviour in this regard would have undermined the Plaintiff's trust in him and led to a sense of betrayal in her.

The Defendant's secretive behaviour towards the Plaintiff

43 On the Plaintiff's allegations of the Defendant's secretive behaviour towards her, I was of the view that his actions with regard to the US visa application for the Plaintiff as discussed earlier can also be considered secretive behaviour, in that the Defendant had misled her and (up till August 2023) concealed his genuine intentions from her, giving her the impression that this was still in the works while, unbeknownst to her, he had planned and subsequently filed for divorce in India.

44 The Plaintiff also alleged that the Defendant was secretive by not disclosing his address in the US to her. The Defendant took the position that it was not unreasonable for him not to disclose his US address to the Plaintiff if parties have been separated.

45 I would agree that if parties were still separated and the Plaintiff was aware of the same, then there is some basis for the Defendant's position. However, given my earlier findings that the evidence suggests lack of clear intention from either party to formally separate, and that parties had behaved and conducted themselves and treated each other in a manner more consistent as spouses in an existing marriage, I did not think the Plaintiff can be faulted for perceiving that the Defendant was being secretive to her by not disclosing his address in the US.

46 For completeness, I did not consider the Defendant choosing to designate his secretary as emergency contact (instead of the Plaintiff) as being secretive behaviour as alleged by the Plaintiff, since the Defendant had informed the Plaintiff of this. I also did not consider the Defendant terminating his life insurance policy (in which the Plaintiff was the beneficiary) without informing the Plaintiff as secretive behaviour, since he was the policy holder

and has the discretion to deal with the policy as he deems fit (which the Plaintiff had admitted).

Prospect of reconciliation

47 Finally, I considered the prospect of reconciliation between parties. Suffice to say that give the current state of the relationship between parties, and taking into account the Defendant himself had filed for divorce in India, I did not see any reasonable prospect of reconciliation.

Summary of findings

48 Overall, while I did not think the Plaintiff has proven all her allegations against the Defendant, I found that the Defendant's actions with regard to him giving the Plaintiff false expectation and hope of relocating to the US to reunite with him, misleading her on the US visa application and concealing and being secretive of his true intentions would cumulatively amount to behaviour on his part such that the Plaintiff cannot reasonably be expected to continue to live with him. I accepted the Plaintiff's submission that the Defendant's actions would have undermine her trust, emotional stability and sense of security in the relationship, and there is no longer any affection and trust or meaningful communication between the parties.

49 Finally, I did not think the Defendant has substantiated or proven his claim that the Plaintiff had made false allegations of his unreasonable behaviour to gain a tactical advantage in the ancillary matters.

Conclusion

50 In conclusion, I found that the Plaintiff has proven that the marriage has broken down irretrievably in that the Defendant has behaved in such a way that she cannot reasonably be expected to continue living with him.

51 Having noted and applied the less rigorous and stringent approach to viewing alleged unreasonable behaviour as suggested in *Elements* and adopted in *USC* at [17] and [18] above, I was satisfied that a judgment of judicial separation on the Plaintiff's claim should be granted, and I therefore so ordered.

52 On the issue of costs, the Plaintiff's solicitors submitted that costs should follow the event and sought costs at \$15,000.00 (including disbursements). The Plaintiff's solicitors informed the Court that there was an Offer to Settle ("OTS") issued to the Defendant on 26 March 2025 proposing that judicial separation be granted on the Plaintiff's claim with an offer for the Defendant to file his counter-claim, which the Defendant did not take up. Parties had therefore go through a one (1) day trial and file closing submissions.

53 The Defendant's solicitors disagreed on the Plaintiff's quantum for costs and pointed out that the OTS was issued after parties' AEICs were exchanged, and that work done after the OTS was issued on 26 March 2025 was mainly for the trial. The Defendant's solicitors submitted that costs should be around \$4,000.00 to \$5,000.00, taking into account the OTS as well as last minute work that had to be done because of the 11th hour submission of messages (in PS1) before the trial which was not objected to.

54 After hearing counsel, I ordered the Defendant to pay the Plaintiff costs of the trial fixed at \$8,000.00 all-in.

Eugene Tay
District Judge

Ms Chong Xinyi / Ms Sheryl Keith Sandhu
(M/s Gloria James-Civetta & Co)
for the Plaintiff

Mr Low Jin Liang / Ms Sabrina Chau
(M/s PKWA Law Practice LLC)
for the Defendant.
