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(2) Redaction HAS/~~HAS NOT~~ been done.

Muhammad Hidhir Bin Abdul Majid

District Judge

19 September 2025

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGFC 99

FC/OADV 125 of 2025

RAS 24 of 2025

Between

XRO

... Applicant

And

XRP

... Respondent

GROUND OF DECISION

[Family Law] – [Division of matrimonial assets] – [Variation of consent order]

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... Applicant

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... Respondent

Family Court — FC/OADV 125 of 2025
District Judge Muhammad Hidhir Bin Abdul Majid
29 July 2025

19 September 2025

District Judge Muhammad Hidhir Bin Abdul Majid:

Background

1. The parties were married in August 2010 and have 2 children, A and B. The Applicant filed for divorce on 15 October 2019. Interim Judgment was made on 5 November 2019 which included consent orders in relation to two properties, Property 1 and Property 2, owned jointly by the parties. The judgment was made final in February 2020.

2. This appeal concerns an application to vary paragraphs 3(d)(i) and 3(d)(ii) of the Interim Judgment made on 5 November 2019 which provided for the following:

(i) Paragraph 3(d)(i) on Property 1

1) Property 1 shall continue to be leased out and the rental proceeds shall be utilised towards repayment of the mortgage loan and all costs and expenses of the said property including but not limited to property tax, agent's fees, management fees, insurance and repairs. Any excess in rental after payment of the aforesaid, shall be divided equally between parties. Any shortfall shall be borne equally.

2) In the event that Property 1 is sold, parties shall have joint conduct of the sale. The sale proceeds shall be apportioned as follows:-

- (a) To repay the outstanding mortgage loan;
- (b) To pay the costs and expenses of the sale;
- (c) To make the requisite CPF refunds to parties' respective CPF accounts;
- (d) The net proceeds shall be divided equally;
- (e) In the event the amount refunded to the Respondent's CPF account exceeds 50% of the sale proceeds less Items (a) and (b), the Respondent shall pay the Applicant a sum equivalent to the said difference.

3) If Property 1 is not sold in future, the said property shall be transferred by way of gift or inheritance to Child A.

4) If at any time prior to the sale or transfer, should either party choose to reside in Property 1, the said party shall be solely responsible for the mortgage loan payments and all costs and expenses of the property provided always that any such payments made by the party shall not be taken to affect the agreed division of the net sale proceeds as set out in Paragraph 2 above.

(ii) Paragraph 3(d)(ii) on Property 2

1) Property 2 shall continue to be leased out and the rental proceeds shall be utilised towards repayment of the mortgage loan and all costs and expenses of the said property including but not limited to property tax, agent's fees, management fees, insurance and repairs. Any excess in rental after payment of the aforesaid, shall be divided at 70% to the Applicant and 30% to the Plaintiff. Any shortfall shall be borne in similar proportion.

2) In the event that Property 2 is sold, parties shall have joint conduct of the sale. The sale proceeds shall be apportioned as follows:-

- (a) To repay the outstanding mortgage loan;
- (b) To pay the costs and expenses of the sale;
- (c) To make the requisite CPF refunds to parties' respective CPF accounts;
- (d) The net proceeds shall be divided at 70% to the Applicant and 30% to the Respondent
- (e) In the event the amount refunded to the Respondent's CPF account exceeds 30% of the sale proceeds less Items (a) and (b), the Respondent shall pay the Applicant a sum equivalent to the said difference.

3) If Property 2 is not sold in the future, the said property shall be transferred by way of gift or inheritance to Child B.

4) If at any time prior to the sale or transfer, should either party choose to reside in Property 2, the said party shall be solely responsible for the mortgage loan payments and all costs and expenses of the property provided always that any such payments made by the party shall not be taken to affect the agreed division of the net sale proceeds as set out in Paragraph 2 above.

3. The Applicant sought the following orders in the application:

a. in respect of Property 1:

"The Respondent shall sell his rights, title and interest in Property 1 to the Applicant by way of part-share resale within 6 months of the date of Order of the Court upon the Applicant paying the Respondent the sum of 50% of the net value of Property 1. The net value of the matrimonial flat shall be the market value of the matrimonial flat based on a valuation obtained through a private valuer appointed jointly by the parties, less the outstanding loan. The Applicant shall bear the costs related to the sale. The Respondent shall make the required CPF refunds from his 50% net value of the property.

b. in respect of Property 2:

Property 2 shall be sold on the open market within 6 months of the date of the Order of Court. The sale proceeds shall be applied as follows:-

- a. To make full payment of the outstanding housing loan to the bank.
 - b. To pay all costs and expenses incidental and relating to the sale of the property.
 - c. The balance sale proceeds shall be divided in the following manner: 70% to the Applicant and 30% to the Respondent.
 - d. Parties shall pay the requisite CPF refunds in accordance with applicable CPF Rules and Regulations to their CPF accounts from their respective share of the sale proceeds.
 - e. In the event that party's share of the sale proceeds are insufficient to pay the required CPF refunds to his/her own CPF accounts, that party shall be responsible for topping up the shortfall in cash to his/her own CPF account in one lump sum.
 - f. The Applicant shall have sole conduct of the sale.
4. The Respondent also sought that the Respondent shall pay the Applicant the difference between S\$1.58m and the sale price, should the eventual sale price of the Property 2 fall below S\$1.58m.

Affidavits

5. The Applicant filed the following:
 - (a) Affidavit in support of application filed on 25 February 2025.
 - (b) Supporting affidavit filed on 3 July 2025.
 - (c) 2nd supporting affidavit filed on 18 July 2025.
6. The Respondent filed his affidavit in reply on 17 July 2025.

Parties Case

The Applicant

7. The Applicant provided the following reasons for the variation for Property 1:

- c. Applicant wished to purchase the Respondent's 50% share to avoid similar disputes, ensured that he would receive his fair share without incurring additional costs, delays and uncertainties and provide a clear break for parties.
- d. Applicant would like to be able to determine its future use.

8. The Applicant provided the following reason for the variation of the order for Property 2:

- e. She was solely responsible for managing it, including securing tenants, coordinating with agents, handling replacements, overseeing renovations, managing legal matters and payment of management and strata fees and property tax.
- f. The Respondent only covered 30% of the monetary shortfalls and did not contribute time and effort to its management. As of 31 January 2025, there was an outstanding loan of \$652,867.01. There had been financial shortfalls each month amounting to about \$650 per month or \$7,800 per year for which she had to bear 70% of the amount. The loss placed a significant financial strain on her, depleting her resources month after month. Selling it aligned with the terms of the interim judgment and it was prudent to have it sold. The current lease would expire in September 2025. She had received a favourable offer for \$1.58 million and wished to proceed with the sale.

g. The Respondent's refusal was impractical, inequitable and inconsistent with the terms of interim judgement which gave the Applicant the predominant financial interest in its sale.

h. Applicant also wanted to reinvest and utilize funds that would benefit her and the children, example, funding the children's private education. After the sale, she could establish a trust independently. The Respondent had not authority to dictate how she managed her share.

The Respondent

9. The Respondent disagreed with the variation application in respect of the two properties as the parties intended to preserve the properties for the children's future. The order provided these to be gifts to them if not sold. He proposed that if sold the proceeds should be placed in a trust or custodial accounts for the children financial needs. Alternatively, the properties should be maintained for their potential appreciation in value.

Submissions

10. The counsel for each party submitted written submissions and the matters set out below at the hearing.

11. On behalf of the Applicant:

i. in respect of Property 1, she wished to have the property bought over at market value based on valuation by an independent valuer;

j. in respect of Property 2, the clause was unworkable as it did not state when the property was to be sold and suggested that this should be by agreement. It was reiterated that the rental income was

insufficient for the parties to hold on to the property. The property should be sold for parties to have a clean break.

k. In respect of Property 2 it was pointed out that though the clause provided for the proceeds to be divided 70:30 in favour of the Applicant, there was a dispute as to whether the division should be before or after CPF refunds¹. The Applicant sought to vary the sequence of the CPF refunds such that these refunds were made after the division of the proceeds of sale based on 70:30 apportionment in favour of the Applicant.

l. The Applicant's counsel submitted that the Applicant had wanted to have the CPF refunded after division. In view of that she had agreed to the following "adjustment" clause which reads:

In the event the amount refunded to the Respondent 's CPF account exceeds 30% of the sale proceeds less Items (a) and (b), the Respondent shall pay the Applicant a sum equivalent to the said difference.

12. The Applicant's counsel explained that when the order was agreed, the property was worth about \$1 million². However, the clause did not contemplate a situation when the property value and sale price would significantly appreciate. Counsel also pointed out that there was a separation deed contemplated and other surrounding circumstances which supported the Applicant's contention that the parties intended for the division of proceeds be 70:30 before CPF refunds in favour of the Applicant. One of the circumstances concerned the

¹ This was in relation to Clause 2) for Property 2, specifically:
“(c) To make the requisite CPF refunds to parties' respective CPF accounts;
(d) The net proceeds shall be divided at 70% to the Applicant and 30% to the Respondent”.

² Paragraph 54 of Applicant's written submissions.

Applicant agreeing to the parties' overseas properties be transferred to the Respondent without any compensation made to the Applicant.

13. On behalf of the Respondent, it was also submitted that:

m. It was dangerous to decipher parties' intention which led to the consent order. What was evident was that parties took at least one month to decide on the matter and what parties had contemporaneously agreed to were as set out in the court order.

n. The effects of the variation application for Property 2, if allowed were different from those consented to.

The law

14. In deciding the application, the legal provisions and authorities set out below were considered.

15. Under sections 112(1) and 112(4) of the Women's Charter 1961, the Court has the power to vary the orders for division of assets. The provisions read:

112.—(1) The court has power, when granting or subsequent to the grant of a judgment of divorce, judicial separation or nullity of marriage, to order the division between the parties of any matrimonial asset or the sale of any such asset and the division between the parties of the proceeds of the sale of any such asset in such proportions as the court thinks just and equitable.

(4) The court may, at any time it thinks fit, extend, vary, revoke or discharge any order made under this section, and may vary any term or condition upon or subject to which any such order has been made.

16. In relation to orders made by consent, in *XNG v XNH* [2025] SGHCF 32 the Court stated (at [9]):

A consent order occupies a slightly higher elevation of authority because it is an order that both parties have forged together. It has the additional alloy of a contract and, therefore, more is required before a court will vary the order in question. It will not be enough to show that a consent appears unjust. This is because justice between the parties is sometimes a matter between them, and a court may not be able to revise an agreement entered into between parties who have decided in their wisdom how much to give and how much to take from each other.

17. The principles to be applied for variation of ancillary orders are set out by the Court of Appeal's case of *AYM v AYL* [2012] SGCA 68. The Court of Appeal also clarified the threshold required for a court to intervene and vary orders relating to the division of matrimonial assets. At [23] the Court made it clear that there should be a "fundamental importance of finality" which applies in the context of division of assets. The Court would make, inter alia, the necessary variations to an order for division only when the order was unworkable or has become unworkable (but before it has been fully effected or implemented). There could be situations where a court order has become unworkable as a result of new circumstances which have arisen. However, the change in question must be "very rare and very extreme" (at [26]).

18. In relation to parties who are legally represented, in *AUA v ATZ* [2016] SGCA 41, the Court of Appeal stated that any agreement in relation to the issue of division of assets which has been freely and voluntarily entered into by the parties upon legal advice should be almost determinative of the outcome and the role of the court "is greatly circumscribed".

Reasons for dismissal

19. The Applicant's application was dismissed for the reasons set out below.

20. In respect of Property 1, as mentioned above, the Applicant wished to purchase the Respondent's 50% share to avoid similar disputes, ensured that he

would receive his fair share without incurring additional costs, delays and uncertainties and provide a clear break for parties. The Applicant would like to be able to determine its future use.

21. I was of the view that the above reasons did not amount to a material or radical change in the circumstances.

22. In respect of Property 2, the Applicant main reason for seeking a variation was that she had been suffering shortfalls in the net income received of \$650 per month. Her 70% share of this amount came up to \$455 per month.

23. The Applicant had agreed to take on the obligation to maintain the property and in return, 70% of the net income would be retained by her whilst the remaining 30% be the Respondent's share if there had been net profit. Any net loss would have to be shared in the same proportion. As the property was to be rented out, she would have anticipated that there would be occasions where the property would be vacant or rented at a loss in which case, a net loss was to be expected. I did not find that the \$455 she had to incur each month caused a financial burden on her as claimed.

24. For a court to vary an ancillary order, it could also be shown that the order was unworkable. I was of the view this was not the case here for both properties. The order has been in operation for 5 years. In these 5 years, the properties had increased in value and to continue maintaining the properties, the Applicant had adhered to what had been agreed. It is not open to her now to claim that the order had been unworkable.

25. I was also of the view that the reasons given were not sufficient to amount to a radical or material change in the circumstances in respect of Property 2.

26. In addition to the above reasons, I was of the view that variation of the order should not be allowed for the following additional reasons:

(a) The real effect of the varying clause 2 in respect of Property 2 was that the Respondent would be disadvantaged if the division of the proceeds were made before CPF refunds. This would be an injustice to the Respondent.

(b) The order was made with the consent of the parties. The court in *XNG v XNH* stated that it would not be enough to show that a consent appears unjust. While the Applicant claimed that the effect of the division after the sale of Property 2 would mean she would be receiving a lesser share than she had anticipated, this is a matter between the parties and, using the words of the court in *XNG*'s case, the court "may not be able to revise an agreement entered into between parties who have decided in their wisdom how much to give and how much to take from each other.". I was of the view the Applicant would have to stand by what she had agreed to in the consent orders made.

(c) The Applicant was legally represented in the proceedings involving the division of the ancillary matters and would have been advised on the implications of the order she has consented to. While the Applicant had explained that the clauses, including the adjustment clauses were made on the basis that there was to be either a loss or no increase in the value of properties, there was no reason why the Applicant could not have insisted or provided for a separate adjustment clause in the event that the properties increase in value.

(d) The variation sought to have the two properties sold would detract from the parties' original intention which was to have the 2

properties gifted to the 2 children if not sold. There was no reason for the departure.

Conclusion and costs

27. For the reasons given, the application was dismissed with costs.

28. The Respondent estimated the disbursements incurred to be in the region of \$800 to \$1,000. The sum of \$4,000 was sought by the Respondent while the Applicant proposed \$1,000 as there was only 1 reply affidavit filed by the Respondent. Having regards to the work done to resist the application, I fixed cost of \$2,500 to be paid to the Respondent.

Muhammad Hidhir Bin Abdul Majid
District Judge

Ms Amy Lim (Amy Lim Law Practice)
for the Applicant
Mr Loo Liang Zhi (Sterling Law Corporation)
for the Respondent