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

[2024] SGHC(A) 35

Appellate Division / Civil Appeal No 32 of 2024

Between

WVS

… *Appellant*

And

WVT

… *Respondent*

Divorce Transferred No 4968 of 2019

Between

WVS

… *Plaintiff*

And

WVT

… *Defendant*

GROUNDS OF DECISION

[Family Law — Matrimonial assets — Division]
[Family Law — Custody — Care and control]
[Family Law — Maintenance — Child]

WVS
v
WVT

[2024] SGHC(A) 35

Appellate Division of the High Court — Civil Appeal No 32 of 2024
Debbie Ong Siew Ling JAD, See Kee Oon JAD and Philip Jeyaretnam J
17 September 2024

29 November 2024

Debbie Ong Siew Ling JAD (delivering the grounds of decision of the court):

Introduction

1 In these grounds of decision, we reiterate the importance of the broad-brush approach in the court's exercise of its power in dividing matrimonial assets pursuant to s 112 of the Women's Charter 1961 (2020 Rev Ed) (the "Charter"). In particular, we emphasise that the various steps in the structured approach in *ANJ v ANK* [2015] 4 SLR 1043 ("*ANJ*") should *not* be applied in a rigid, mechanistic and overly-arithmetical manner.

2 In AD/CA 32/2024 ("AD 32"), the appellant (the "Wife") appealed against the decision of the Judge of the Family Division of the High Court (the "Judge") in *WVS v WVT* [2024] SGHCF 17 (the "Judgment"). For convenience, we adopt the abbreviations used in the Judgment unless otherwise stated.

Facts

3 The parties were married on 2 May 2001. The Wife commenced divorce proceedings on 10 October 2019 and an interim judgment of divorce (the "IJ") was granted on 23 December 2019. This ended their 18-year marriage. The parties have three children (the "Children") who were 15, 13 and 11 years old respectively at the time of the ancillary matters ("AM") hearing. The AM orders were made on 19 March 2024, following the AM hearing on 23 January 2024.

4 The Judge ordered that the parties were to have joint custody of the Children. The respondent ("Husband") was to have care and control of the Children and the Wife was to have access to them on the following terms (Judgment at [37]):

(a) School term access:

(i) Weekday access on every Wednesday after school (or from 12pm in the event that there is no school) to 10pm, at the Husband's place of residence.

(A) Parties are at liberty to correspond and agree on alternative weekdays if that Wednesday of that week is unsuitable.

(ii) Weekend access on every Saturday from 10am to 10pm (no overnight access).

(iii) Parties are at liberty to correspond and agree on overnight access for any of the Children on any day of the week, depending on the preferences of the child or Children.

(b) School holidays access:

(i) Half of the June school holidays (with overseas and overnight access).

(ii) Half of November–December school holidays (with overseas and overnight access).

(c) Public holiday access (outside of school holidays):

(i) Alternate public holiday access from 10am to 8pm.

(ii) Chinese New Year's Eve and the first day of Chinese New Year (with overseas and overnight access). This is to alternate every year.

5 In respect of maintenance, the Judge ordered that maintenance for the Children was to be borne by the parties in the proportion of 55% by the Wife and 45% by the Husband. As the Husband had care and control of the Children, the Wife was ordered to pay the Husband a monthly maintenance of $2,475.00 for the Children from 1 June 2024 and thereafter on the 1st of each subsequent month. She was also ordered to pay the Husband a lump sum of $100,000.00, being backdated maintenance for the Children.

6 In respect of the division of matrimonial assets, the Judge valued the total pool of the matrimonial assets at $7,500,214.61 (Judgment at [25]). This pool included properties jointly held by the parties referred to as the Teck Whye Property and Owen Road property, as well as a share of a property referred to as the Clementi Avenue property held by the Husband and his mother. His assessment of the parties' respective direct contributions ratio towards each *jointly held* asset was a key area of dispute below (Judgment at [26]–[33]). Central to the Judge's reasoning in this area was his adoption of a rough and ready approximation of the profits of their joint business, "NG shop", as a key

component of the parties' respective financial contributions to their jointly held properties. According to the Judge, this was because the parties had capitalised on the success of their joint business by using the profits earned to invest in multiple properties. Given the Wife's more significant contributions to the business, the Judge determined that it was just and equitable to attribute the profits earned from the NG shop in the ratio of 65:35 in favour of the Wife (Judgment at [28]).

7 In the final analysis, the Judge held that the matrimonial assets were to be divided in the ratio of 59% to the Wife and 41% to the Husband. The parties' direct contribution and indirect contribution ratios are summarised in the following table (Judgment at [35]).

	Husband	**Wife**
Direct contributions	33%	67%
Indirect contributions	50%	50%
Average ratio (rounded)	41%	59%

8 Finally, the Judge ordered each party to bear their own costs (Judgment at [39]).

Issue 1: Division of matrimonial assets

The Wife's submissions in broad overview

9 With respect to the division of matrimonial assets, the Wife contested the Judge's decision on these points:

(a) There was a typographical error in the valuation of the Teck Whye property;

(b) The Judge erred in his treatment of the unaccounted rental proceeds from the Owen Road property as he wrongly found that there were no such unaccounted rental proceeds;

(c) The Judge committed an error of law in his valuation of the share of Clementi Avenue property which was acquired during the marriage;

(d) The Judge erred in finding that the parties had equally contributed to the renovation costs of the matrimonial home;

(e) The Judge erred in the adoption of a rough and ready approximation of the parties' joint business profits in the ratio of 65:35 as the parties' financial contributions to various properties;

(f) The Judge erred in determining that the parties' respective indirect contributions were in the ratio of 50:50 as the Wife had contributed more, and

(g) The Judge erred in failing to draw and give effect to an adverse inference against the Husband for his failure to make full and frank disclosure of his assets.

Our decision

Typographical error in the valuation of Teck Whye property

10 We allowed a correction to be made to the value of the Teck Whye property. The Wife submitted that there was a typographical error in the Judgment regarding the valuation of the Teck Whye property and that the

correct figure should have been $1,394,190.49 instead of $1,349,190.49 as adopted at [2] of the Judgment. As the Husband accepted that this was indeed a typographical error, we allowed the correction of this figure. After correction, the value of the total matrimonial pool should be $7,545,214.61 instead of $7,500,214.61 as stated at [25] of the Judgment.

The Wife's contention on the purported unaccounted rental proceeds from the Owen Road property

11 We turn to the Wife's contention that the purported unaccounted rental proceeds from the Owen Road property ought to be added to the matrimonial pool. The Judge was of the view that based on the bank statements and the tenancy agreements, he was unable to determine whether there was a discrepancy between the expected and actual rent collected. He found that the evidence was unclear and did not support the Wife's position that the Husband had misappropriated some rental proceeds. The Judge accepted the Husband's position that the monthly rent was insufficient to cover the mortgage instalments. He declined to add into the pool the sum alleged by the Wife to be unaccounted rental proceeds. We were of the view that the Judge's conclusion was not against the weight of the evidence, and he did not err in his decision on this issue. Although this would suffice to deal with the Wife's case on appeal on this issue, we go on to explain that quite apart from the Judge's finding on the evidence, the Wife had not persuaded us that there was a principled legal basis to add the purported unaccounted rental proceeds into the matrimonial pool.

12 At the hearing, we asked counsel for the Wife, Ms Linda Joelle Ong ("Ms Ong") to explain how the Wife's allegations that the Husband had misappropriated some rental proceeds would justify adding a sum into the

matrimonial pool. For instance, was the Wife arguing that the Husband's conduct amounted to a wrongful dissipation of assets carried out with the intention to deprive her of the assets, or was she claiming that the Husband had expended those sums within the "*TNL* dicta" as referred to in *UZN v UZM* [2021] 1 SLR 426 ("*UZN*") at [62]? The *TNL* dicta (see *TNL v TNK and another appeal and another matter* [2017] 1 SLR 609 ("*TNL*") at [24]) states that substantial sums expended during the period where divorce proceedings are imminent must be returned to the pool if the other spouse has at least a putative interest in them and has not consented to the expenditure.

13 We noted the clarification made by Ms Ong at the hearing that the Wife's submissions were based on purported unaccounted rental proceeds *from 2013*, spanning the years when the marriage was intact. Thus, her submissions were *not* that dissipation of marital funds occurred when divorce was imminent. In the circumstances, the *TNL* dicta was not applicable. Ms Ong accepted that this was the case at the hearing, and rightly so.

14 This is *not* to say that outflows of money or assets *before* divorce is imminent can *never* be called into question; it is possible that an adverse inference may be drawn from undisclosed withdrawals of significant sums of money during the course of the marriage (see *UZN* at [66]). However, it has been observed that (*UZN* at [67]):

> 67 … ***before divorce is imminent, parties may use their financial resources in the various ways that functioning families would***. If there is a large sum of money ***withdrawn by a party in the early years of the marriage, it is usually hard to believe that there is concealment or wrongful dissipation carried out to put assets out of the reach of the other party***. If, for example, a spouse has indeed used up large sums of moneys on gambling activities long before divorce became imminent, such conduct may be relevant in determining the parties' *direct and indirect contributions* under the *ANJ* structured approach, but these sums spent have not

> been wrongfully dissipated in the relevant sense; nor are they concealed assets, for they are no longer in existence. As such, there is no basis to add such sums back into the matrimonial pool. It would, however, be appropriate to take the "dissipation" (in the different sense of wasteful whittling away) of moneys into account when assessing the parties' contributions to the marriage.
>
> [emphasis in italics in original; emphasis added in bold italics]

15 In the present case, Ms Ong accepted at the hearing that had the Husband been able to provide an explanation or evidence for how the monies had been used, for example, that the monies had been used for expenses such as tuition fees, maid's expenses, or some other family expenses, this would have been unobjectionable. However, she maintained that the Husband had not properly explained where the money went and this was justification for adding the unaccounted rental proceeds into the matrimonial pool. It appeared to us that the Wife's understanding of "misappropriation" was that the Husband had taken or used their joint funds without her explicit consent.

16 Before the time that divorce is imminent, parties may expend sums, even substantial sums, while managing their financial affairs in the usual ways that married couples do: *WOS v WOT* [2024] 1 SLR 437 at [52]. The court is "not concerned with the justifiability of expenses stretching indefinitely into the past" (*UZN* at [70]), but with identifying the matrimonial assets at the time of divorce.

17 If one party is alleging that the other has spent significant sums of money without his or her consent during the marriage (before divorce is imminent), the allegation appears to be of financial irresponsibility, which may, depending on the facts of the case, be relevant to the parties' direct and indirect contributions to the marriage. It should be appreciated that the *parties' direct and indirect*

contributions to the marriage are *relevant* not to the identification of the asset pool but to the *proportions of division* of the pool.

18 In the present case, the Wife's argument was for the purported unaccounted rental proceeds to be added to the matrimonial pool. This is a question the court considers *when identifying and valuing the total pool* of matrimonial assets to be divided. For example, if the rental proceeds were expended or transferred away when divorce was imminent (being assets in which the other spouse has at least a putative interest), they are matrimonial assets which ought to be added back to the pool within the *TNL* dicta. If the proceeds were proven to have been spirited away or concealed in order to deprive the other spouse of a share in them, they may be added back into the pool in appropriate circumstances. In the present case, however, the Wife had not shown that the proceeds fell within either of these situations or any other situation which justifies their inclusion in the pool.

19 Thus, apart from the lack of evidence supporting the Wife's position on the purported unaccounted rentals, she had not shown any principled basis to add these sums into the matrimonial pool.

The Wife's contention on the value of the Clementi Avenue property to be included in the pool

20 The Wife also contended that the Judge had erred in his approach to valuing the share of the Clementi Avenue property to be included in the matrimonial pool. The Judge found that this property, originally purchased by the Husband's father in 1990 and subsequently inherited by the Husband in 2009, was partially paid for during the marriage and thus valued that portion by reference to the *exact sum* paid to reduce the mortgage loan. The Judge noted that when the Husband's father passed away, the Husband and his mother

became joint owners of the property, which was then not yet fully paid up. It was undisputed that the Husband and his mother earned monthly rental income of about $8,000.00 from the property, of which $4,000.00 was used to pay the mortgage instalments.

21 The Wife submitted that the Judge's decision on this issue was contrary to the Court of Appeal's decision in *USB v USA and another appeal* [2020] 2 SLR 588 ("*USB*"). She argued that in *USB*, the court had indicated a preferred approach to the valuation of assets partially acquired during marriage, which the Judge did not adopt. The approach in *USB* involved the application of a formula (X/Y) x N where "X" is the amount paid towards the acquisition of each property during the marriage (between the date of the marriage and the date of the IJ), with "Y" being the total amount paid towards the acquisition of each property as at the AM hearing, and "N" being the net value of the property as at the AM hearing. The Wife submitted that as this approach was indicated to be the preferred approach, it should apply in the present case such that any capital gains would be reflected in the calculation, thereby arriving at a fairer result.

22 We begin by pointing out that the relevant portion of the judgment in *USB* addressed the different situation of a spouse who *purchases* property some years before marriage and makes payments towards acquiring the property *before* and *during* the marriage by way of mortgage repayments. In the present case, the Clementi Avenue property was *acquired by inheritance* and is *prima facie not* a matrimonial asset. It was *not* the Wife's case that this inherited asset was substantially improved during the marriage by the other party or by both parties to the marriage (see s 112(10) of the Charter). An inherited or gifted asset can be transformed into a matrimonial asset by this formula, but this was not advanced or proven by the Wife in the present case. Ms Ong accepted at the

hearing that the mortgage repayments had been paid from the rental proceeds from the property itself. The inherited property was self-financing. There was no dispute that the Clementi Avenue property was acquired by inheritance and hence, the burden of proof fell on the Wife to show that it was a matrimonial asset (*USB* at [32]):

> 32 … where an asset is *prima facie* not a matrimonial asset, the burden would lie on the party asserting that it is a matrimonial asset to show how it was transformed. For example, in our recent decision in *TQU v TQT* [2020] SGCA 8, it was undisputed that a property at Pender Court was a gift from the husband's father to the husband prior to the marriage (at [50]). The burden then fell on the wife to produce evidence that the property had been used as a matrimonial home and had therefore been transformed into a matrimonial asset, or that she had made substantial improvements to the property during the marriage (at [55]).

23 We rejected the Wife's contention that the entire net asset value of the Clementi Avenue property should be included in the matrimonial pool.

Equal contributions to the renovation costs of the matrimonial home

24 The Wife also challenged the Judge's finding that the parties had made equal contributions to the renovation costs of the matrimonial home. We did not think that the Judge's conclusion was against the weight of the evidence. As the Husband had pointed out, the Wife had accepted in her Affidavit of Assets of Means dated 21 September 2020 the following as her direct financial contributions towards the purchase price of the matrimonial home: "Renovation cost: Approximately S$40,000. Based on my recollection, the renovation cost was approximately S$80,000." Given that the Wife accepted that she had contributed $40,000.00 to the total renovation cost of $80,000.00, the Judge had fairly attributed the remaining $40,000.00 of renovation costs to the Husband.

The Wife's contention on the Judge's adoption of 65:35 as the ratio of the parties' financial contributions to various properties derived from parties' business profits

25 We now address the Wife's contentions that the Judge erred in adopting a rough and ready approximation of 65:35 as the ratio of the parties' financial contributions to various properties derived from the parties' joint business profits. We did not think that the Judge had erred in using the broad-brush approach in this issue.

26 The Wife submitted that the court should not use a rough and ready approximation in cases where there is no dispute as to who had financially contributed to the acquisition of the matrimonial assets or the exact amounts of those contributions. We observed that in the present case, the exact amounts of contributions could not be fully obtained from documentary evidence of direct payments made, such as evidence of bank statements or CPF account statements showing payments towards the property acquisitions. Instead, the Wife had to rely on tracing the proceeds of properties bought and sold over the years to calculate the sums she alleged are the exact sums contributed. This was essentially an invitation for this court to take an arithmetic (and calculative) approach to the assessment of the parties' direct contributions by tracing the ownership of proceeds from successive properties at the first step of the structured approach in *ANJ*.

27 We reiterate the Court of Appeal's observations in *UYQ v UYP* [2020] 1 SLR 551 ("*UYP (CA)*") at [3] that a "rigid, mechanistic and overly-arithmetical application of the structured approach in [*ANJ*] must be assiduously avoided". The structured approach is a guide in achieving a just and equitable division of matrimonial assets; it was never intended to supplant the broad-brush approach in dividing matrimonial assets. In situations where properties

purchased during the marriage are sold and the proceeds are used to acquire more properties, the parties should refrain from engaging in a mathematical exercise of tracing the funds through successive property acquisitions. These principles are echoed in the observations of the Family Division of the High Court in *UYP v UYQ* [2020] 3 SLR 683 ("*UYP (HCF)*"), where it was held (at [93]) that the court's discretion was to be exercised in a broad-brush manner due to the evidential difficulties inherent in a long marriage, exacerbated by the parties' practice of reinvesting proceeds of sale and rental income from properties across the years. It would be impractical to delve into the minute details of properties sold long ago. Given the nature of married parties' joint lives, a forensic exercise into their financial journey (which is unlikely to be fully captured in documentary evidence) may not lead to a more just and equitable outcome. There is no social expectation nor does the law require that a married couple track and record their financial contribution or expenditure in detail during their married life. Further, allowing parties to be calculative over every sum they had contributed throughout their long years of marriage does "not sit well with the philosophy of marriage nor with divorce proceedings that endeavour to support parties towards an amicable resolution and conclusion to this phase of their family life.": *UYP (HCF)* at [64], referring to *UNE v UNF* [2018] SGHCF 12 at [96]–[97].

28 What the court will do in such situations is to consider the relevant evidence and use a broad-brush approach in assigning direct contribution ratios. We remind parties of the views of the Court of Appeal in *UYP (CA)* (at [4]):

> 4 In our view, it would assist the parties to find a way forward and put this painful chapter of their lives behind them by focusing on the *major details* as opposed to every conceivable detail under the sun. We caveat that this does not mean parties should swing to the other extreme by being remiss in submitting the relevant records. Put simply, there ought to be ***reasonable*** *accounting rigour that* ***eschews flooding***

> ***the court with details that would obscure rather than illuminate***. Henceforth, therefore, courts should discourage parties from applying the *ANJ v ANK* approach in a rigid and calculative manner. Parties would do well to understand that such an approach ***detracts*** from their respective cases instead of enhancing them. And in extreme situations where the court's time and resources have been wasted in a wholly disproportionate manner, a party may face sanctions in the form of the appropriate costs orders.
>
> [emphasis in original]

29 The Wife's contentions were in effect that the Judge was insufficiently granular in his treatment of the direct contribution ratios in respect of each jointly held property. The calculative approach taken by the Wife was especially apparent in her contention on the Judge's alleged error in attributing the arrears of mortgage instalments of $21,128.00 in respect of the Teck Whye property to both parties equally, instead of attributing their shares according to their direct contribution ratio towards the Rosewood property (as the parties used the sale proceeds of the Rosewood property to pay the mortgage arrears on the Teck Whye property). Any resulting difference to the parties' final direct contributions would have been marginal as the arrears totalled only $21,128.00 for a property valued at $1.39m. We were also cognisant that the Judge had given the benefit of his rounding of the figures in the final average ratio to the Wife. The Judge found that "the direct contributions ratio is 67:33, and the indirect contributions ratio is 50:50, the final ratio is thus 59:41 in favour of [the Wife]" (Judgment at [35]). Without rounding, the average ratio would have been 41.5:58.5 in favour of the Wife. The benefit of rounding gave the Wife approximately $37,726.07 more (on the basis that the typographical error in the value of the Teck Whye property has been corrected), which is much more than the arrears of $21,128.00. Nitpicking at small percentages should be avoided in the division exercise. We declined to disturb the Judge's finding on this issue and affirmed the Judge's use of the broad-brush approach in respect of reaching the parties' direct contributions.

The Wife's contention on the parties' indirect contributions

30 With regard to the parties' indirect contributions, we found that the ratio of 50:50 arrived at by the Judge was more than fair to the Wife. The Wife challenged this ratio on the basis that the Judge failed to consider the detailed chronology and supporting evidence of the Wife's allegedly extensive indirect financial contributions in generating profits from various businesses which supported the family and enabled parties to acquire extensive assets over their 18-year marriage and indirect contributions towards the family. The Wife also submitted that the Judge failed to consider the Husband's negative acts in destroying the Children's relationship with her, which should have resulted in lower indirect contributions for the Husband. According to the Wife, her contributions warranted a 90:10 ratio for indirect contributions in her favour.

31 In our view, the Husband had shown himself to be the primary caregiver of the Children and a more constant presence in their lives – this is elaborated at [34] below. In this connection, we would add that the relevant reports on the Children's welfare (see [34] below) did not support the Wife's allegations of parental alienation by the Husband. At the hearing, the Wife highlighted that her involvement in the running of the businesses should not lead to any presumption or view that she did not make substantial contributions to homemaking and caregiving. To be clear, we did not adopt any such presumption or view in our analysis. The Judge had already attributed, rather generously, a 50% share to the Wife for indirect contributions. This would have already taken into account the contributions she has highlighted. Indeed, the submissions and evidence relied upon by the Wife on appeal were fundamentally the same as that placed before the Judge. There was nothing to suggest that the Judge's determination of a 50:50 ratio of indirect contributions failed to account for the Wife's efforts in the marriage. The Judge's decision to

accord equal recognition to the parties' indirect contributions was reasonably exercised in broad strokes, without undue focus on "the minutiae of family life" (*USB* at [43]) and should not be disturbed.

The Wife's contention on the failure to draw an adverse inference against the Husband

32 Finally, we rejected the Wife's submissions that the Judge had erred in failing to draw an adverse inference against the Husband for his purported non-disclosures throughout the proceedings. When a party fails to make full and frank disclosure in the AM proceedings, an adverse inference may be drawn against the party (*UZN* at [18]). However, not every shortfall in accounting would warrant an adverse inference to be drawn (*UZN* at [21]). We were of the view that both parties have made the relevant disclosures but may have failed to fully substantiate some transactions which occurred at various points throughout their 18-year marriage. Understandably, the parties may be unable to recount or retrieve every detail of their past transactions, particularly throughout a marriage of many years. We did not consider it appropriate to draw an adverse inference in the present case.

Issue 2: Children's access

33 Regarding the Children's access, we did not think that the Judge had erred in making the orders that he did or in declining to make the counselling orders sought by the Wife.

34 Considering the counselling report, custody evaluation report and the totality of the circumstances, it was evident that the Children had a stronger bond with the Husband, likely due in no small part to his consistent care for them and his provision of a stable structure and routine. The parents' different

parenting styles were also not lost on us – generally, the Husband was authoritative while the Wife was permissive in parenting styles. The Wife's departure from the matrimonial home in 2018, coupled with the reports, bolstered our observation regarding the Wife's apparent emotional distance from the Children. We also noted the Wife's tendency not to spend all the access time with the Children even when they were placed under her care at her place of residence. We affirmed the Judge's orders.

35 Before the hearing of the appeal, the Wife's solicitors had written to the court by way of a letter dated 23 August 2024 ("Letter dated 23 August 2024") informing the court that the parties had reached an agreement on the following issues: (a) parties' access to the Children's school records; and (b) counselling for the Children. An order was sought on the draft consent order annexed to the Letter dated 23 August 2024 which provided for the following:

> (a) Parties shall have joint custody of the Children. The Husband shall have sole care and control of the Children.
>
> (b) Both parties are to have full access to the Children's school records, report books and examination results from the school. Parties are at liberty to produce the relevant court order to the schools, so that they facilitate the release of the necessary information to the relevant party.
>
> (c) Both parties shall not speak ill of each other in front of the Children.
>
> (d) The Children are to undergo monthly counselling sessions for a period of 12 months, with any costs to be borne by the parties equally.

36 In these circumstances, we granted, by consent of the parties, the orders sought in the Letter dated 23 August 2024. We were heartened that the parties had agreed to arrange for counselling for the Children and exhorted parties to also participate in therapeutic services so that they may be stronger parents themselves.

Issues 3 and 4: Children's maintenance and backdated maintenance

37 We saw no reason to interfere with the Judge's orders on the parties' share of the Children's maintenance and the Wife's obligation to pay the Husband backdated maintenance for the Children.

38 In respect of the Judge's orders on the parties' share of the maintenance, we did not think that the order for the Wife to pay the sum of $2,475.00 to support three teenage children was unreasonable. This figure was based on the Judge's assessment that a split of 55:45 between the Wife and Husband respectively in the parties' relative share of the maintenance payments was fair in the circumstances. In our view, the Judge's orders were not unreasonable. Considering the Wife's substantial financial resources, it would not be too heavy a financial responsibility. Of relevance was the fact that the Wife had been awarded a more significant share of the matrimonial pool of substantial value.

39 In respect of the Judge's order that the Wife pay backdated maintenance of $100,000.00, the Wife's contentions were that first, the Judge wrongly concluded that there was no evidence for a determinative finding on the Wife's submission that she continued to pay for the Children's expenses despite living separately from them, and second, the Judge left unexplained how he had derived the figure of $100,000.00 as backdated maintenance.

40 We did not think that the Judge had erred in ordering the Wife to pay backdated maintenance. The Wife had left the matrimonial home in 2018 and she was unable to prove that she had made the alleged substantial contributions to the Children's expenses since then. The Judge noted that after the Wife left the matrimonial home in May 2018, she "had paid some expenses for the children … but there is no evidence for a determinative finding" (Judgment at [38]). Beyond this, the Judge gave no further explanation on how the sum of $100,000.00 was derived.

41 We agreed with the Judge that the evidence was insufficient to make a determinative finding on the Wife's contributions to the Children's expenses as she had claimed. The evidence which the Wife adduced comprised the following:

(a) photographs of two of the Children having a Chicken McNuggets meal purportedly on 9 September 2020;

(b) receipts showing the groceries the Wife purchased for the children; and

(c) The Wife's WhatsApp correspondence with the domestic helper asking the latter whether she needed the Wife to purchase "breakfast", fish, pork meat and various other food items.

42 If the sum of $2,475.00 (the monthly maintenance sum that the Wife has been ordered to pay) is multiplied by 68 (the number of months from May 2018, the date the Wife left the matrimonial home, to January 2024, the date of the AM hearing), the result would have been a sum of $168,300.00. Instead, the Judge ordered the sum of $100,000.00 to be paid as backdated maintenance. That the Judge ordered this lesser sum of $100,000.00 suggested that he might

have taken into account the possibility that the Wife had made *some* contributions towards the Children's expenses after leaving the matrimonial home in 2018 or had given a discount to the sum because this was to be paid as a large lump sum. In any case, the Judge was exercising his *discretion* in making the order for a backdated maintenance: see *AMW v AMZ* [2011] 3 SLR 955 at [13]. We did not think the Judge had erred in doing so.

Issue 5: Cost orders below

43 The Wife contended on appeal that the Judge had erred in ordering the parties to bear their own costs in view of the Husband's purportedly egregious conduct throughout the proceedings such as the multiple breaches of the interim access orders and cost orders against him below.

44 We saw no reason for this court to disturb the Judge's costs order. The award of costs is ultimately a matter of discretion for the lower court. In *TNL* at [66], the Court of Appeal declined to interfere with the lower court's decision to make no order on the costs of ancillaries as such costs are "something that was well within the discretion of the Judge". Further, in AM disputes, there are no "breaches" of "rights" such that one party could be said to be a "winner" and the other a "loser". AM proceedings address the consequences of the breakdown of a marriage.

45 Finally, we noted that the Wife sought certain consequential orders on appeal. The details on how to carry out the court's division order should be discussed by the parties and worked out between them, with the assistance of their solicitors.

46 We urged both parties to work with each other on how to carry out the division orders. We granted parties liberty to apply should they be unable to reach an agreement.

Conclusion

47 Save for the correction of the typographical error in the Judgment regarding the valuation of the Teck Whye property (at [10] above), we dismissed AD 32.

48 The Wife sought costs of $40,000.00 to $50,000.00 with disbursements of $5,500.00. The Husband sought costs of $35,000.00 to $45,000.00 with disbursements at $5,000.00. Considering the numerous issues raised on appeal and the overall complexion of the case, we ordered the Wife to pay the Husband the costs of this appeal fixed at $45,000.00, inclusive of disbursements. The usual consequential orders were to apply.

Debbie Ong Siew Ling
Judge of the Appellate Division

See Kee Oon
Judge of the Appellate Division

Philip Jeyaretnam
Judge of the High Court

Linda Joelle Ong and Chloe Chua Kay Ee (Engelin Teh Practice LLC) for the appellant;
Yu Gen Xian Ryan (Aspect Law Chambers LLC) for the respondent.