

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2019] SGHCF 20

Divorce (Transferred) No 4038 of 2016

Between

UYD

... Plaintiff

And

(1) UYE

(2) UYF

(3) UYG

... Defendants

JUDGMENT

[Family Law] — [Matrimonial assets] — [Division]

[Family Law] — [Maintenance] — [Wife]

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UYD
v
UYE and others

[2019] SGHCF 20

High Court (Family Division) — Divorce (Transferred) No 4038 of 2016
Tan Puay Boon JC
4 October 2018, 30 January, 11 March 2019

29 August 2019

Judgment reserved.

Tan Puay Boon JC:

Introduction

1 The plaintiff (“the Wife”) and the first defendant (“the Husband”) (collectively “the parties”) in these proceedings were married for 26 years before the Wife commenced divorce proceedings against the Husband. There are three children to the marriage. The matters that fall for determination pertain to the division of matrimonial assets, the maintenance due to the Wife and costs.

Facts

2 The Wife was born in 1969, and is 50 years old this year. She is a homemaker but is on record as an employee at [X] Pte Ltd.¹ The Husband was

¹ Joint Summary of Relevant Information (Amendment No 2) dated 23 January 2019 (“JS-2”) at p 1, S/N 4.

born in 1968, and is 51 years old this year. He is the Executive Chairman and Managing Director of [X] Pte Ltd.² The parties have three sons, who were respectively born in 1996, 2000 and 2002, and are 23, 19 and 17 years old this year.³

3 The parties married on 18 September 1990 in Malaysia.⁴ At that time, the Wife was working as a beautician in Malaysia while the Husband was studying as an undergraduate in a university in Singapore. The Husband's parents paid for his studies and stay in Singapore. The couple lived apart until around 1991, when the Wife moved to Singapore from Penang. In 1992, she started working as a beautician in a beauty salon. In 1993, the Husband graduated from university and began working as an engineer. In 1995, the Wife stopped working as a beautician and became pregnant with the couple's first son.⁵

4 In the early years of their marriage, the couple were of limited means. They could not afford to employ a confinement lady to assist the Wife after she gave birth to the couple's first and second sons. Although they hired a domestic helper after their first son was born, they ceased such employment to save on expenses. At one point in 1998, they had no money to pay for repairs to a damaged washing machine.⁶

² Husband's Affidavit of Assets and Means dated 29 March 2017 ("Husband's AAM") at para 2.

³ Statement of claim for divorce filed 19 August 2016 at para 4; Wife's affidavit of evidence-in-chief dated 14 September 2016 at para 4.

⁴ JS-2 at p 1, S/N 1; Husband's AAM at para 18(a).

⁵ Wife's Affidavit of Assets and Means dated 29 March 2017 ("Wife's AAM") at paras 22(a)–22(g); Husband's AAM at paras 18(a)–18(e).

⁶ Wife's AAM at paras 22(h)–22(i), 22(l)–22(m), 22(p).

5 From 1998 to 2000, the Husband pursued and obtained a diploma from a Singapore polytechnic and a master's degree from a university in Singapore.⁷

6 In 2001, [X] Pte Ltd was incorporated with the Husband and the Wife as equal shareholders and co-directors.⁸ It is undisputed that the Wife provided financial support to the Husband in this regard. According to her, she placed \$30,000.00 of her savings at the Husband's disposal.⁹

7 The marriage began to break down in 2015. On 19 August 2016, the Wife filed for divorce on the ground of the Husband's adultery with the two co-defendants.¹⁰ Interim judgment ("the IJ") was granted on an uncontested basis on 20 September 2016.¹¹

8 Thereafter, the parties came to an agreement on custody, care and control and access, with joint custody of the three children shared between the parties, care and control to the Wife, and reasonable access allowed to the Husband. This agreement was reflected in a consent order dated 4 January 2017 ("the Consent Order").¹² Pursuant to the Consent Order, the Husband was also to make interim payments, including \$5,000.00 per month for household expenses, \$5,000.00 per month to the Wife as salary, property tax payments for the three properties in the Wife's name, payment of the Wife's mobile phone bills and insurance policies, and payment of the children's expenses.

⁷ Husband's AAM at para 18(f).

⁸ Husband's AAM at para 22(h).

⁹ Wife's AAM at para 22(r).

¹⁰ Writ for divorce filed 19 August 2016.

¹¹ JS-2 at p 1, S/N 2; Family Court Interim Judgment No 4539 of 2016.

¹² Family Court Order No 236 of 2017.

9 The parties' second son lives with the Wife in the matrimonial home (the Faber property), and their third son lives with the Husband. The parties have since reached an agreement on maintenance for the children, with the Husband agreeing to pay for the children's insurance, medical and educational expenses until they complete their undergraduate studies.¹³ The parties have prepared a draft consent order which reflects this agreement.

Issues to be determined

10 The contested ancillary matters to be determined are:

- (a) the division of matrimonial assets;
- (b) the maintenance for the Wife; and
- (c) costs.

Division of matrimonial assets

The legal principles

11 Section 112(1) of the Women's Charter (Cap 353, 2009 Rev Ed) ("the Women's Charter") empowers the court to order division of matrimonial assets, having regard to the circumstances of the case and the factors listed at s 112(2).

12 The court may have regard to two methodologies of dividing assets, as set out in *NK v NL* [2007] 3 SLR(R) 743 ("*NK v NL*") at [31]–[33]: the global assessment methodology and the classification methodology. The global assessment methodology comprises four distinct phases: identification and

¹³ JS-2 at p 2, S/N 3.

pooling of the matrimonial assets, assessment of the net value of the pool of assets, determination of a just and equitable division of the assets and apportionment on the basis of the proportions of division. The classification methodology, on the other hand, assimilates the four steps into a broad judicial discretion that first divides *classes* of matrimonial assets which are then apportioned separately. The parties made submissions on the basis of the global assessment methodology,¹⁴ which I will adopt in determining the appropriate divisions to be made.

Identification and assessment of the matrimonial assets

13 In this section, I will consider the first two phases of the global assessment methodology, *viz*, the identification and pooling of all the matrimonial assets pursuant to s 112(10) of the Women’s Charter, and the assessment of the net value of the pool of assets (see *NK v NL* at [31]).

14 The starting position for the date of the *identification* of matrimonial assets is the date that interim judgment is granted (“the IJ date”), *ie*, 20 September 2016 (*ARY v ARX and another appeal* [2016] 2 SLR 686 at [31]). The starting point for the date of the *valuation* of the matrimonial assets is the date of the ancillary matters hearing (“the AM date”), *ie*, 4 October 2018, unless departure from the AM date is warranted by the facts (*TND v TNC and another appeal* [2017] SGCA 34 at [19]).

15 In the present case, the parties have agreed in their Joint Summary of Relevant Information (Amendment No 2) dated 23 January 2019 (“JS-2”) as to

¹⁴ See Wife’s Written Submissions dated 27 September 2018 (“WWS”) at paras 11–13; Husband’s Submissions dated 27 September 2018 (“HWS”) at para 6(12).

the matrimonial assets to be pooled and the general gross valuation of the properties,¹⁵ save for the net value of two properties – the Bukit Timah and Keppel properties – and the value of shares in [Y] Pte Ltd, a company that was incorporated by the Husband in 2002.¹⁶

16 I will first set out the assessment and values of the assets that are not in dispute before dealing with the valuations in dispute.

Agreed assets

17 The matrimonial assets with agreed net values are set out below:

S/No	Description	Agreed value (\$)
Joint assets¹⁷		
1	[X] Pte Ltd and shares therein	17,697,434.00
2	Terrace house in Johor, Malaysia	133,333.33
3	Joint bank accounts	15,948.30
	Sub-total (A)	17,846,715.63
Wife's assets¹⁸		
1	Faber property	5,450,000.00
2	one-north property	1,375,000.00
3	Bank accounts	603,257.68

¹⁵ JS-2 at pp 4–8.

¹⁶ Husband's AAM at para 18(i).

¹⁷ JS-2 at p 4, S/N 1–3; Husband's AAM at para 9.

¹⁸ JS-2 at pp 4–6, S/N 1, 3, 6–8.

4	Central Provident Fund Account	177,721.82
5	Property in Pulau Pinang, Malaysia	116,000.00
	Sub-total (B)	7,721,979.50
Husband's assets¹⁹		
1	Bank accounts	1,458,857.33
2	Central Provident Fund Account	207,042.73
3	Property in Pekan Sepang, Malaysia	50,000.00
	Sub-total (C)	1,715,900.06
	Total [(A) + (B) + (C)]	27,284,595.19

Assets with disputed valuations

18 The matrimonial assets with disputed net values are:

- (a) the Bukit Timah property (gross value agreed at \$25m);
- (b) the Keppel property (gross value agreed at \$2.4m); and
- (c) the shares in [Y] Pte Ltd.

19 The Husband also alleged that the Wife failed to disclose moneys she had received from [X] Pte Ltd. I will first deal with the net valuation of the residential properties before considering how the shares in [Y] Pte Ltd should be valued and the Wife's alleged non-disclosure.

¹⁹ JS-2 at pp 6–9, S/N 3–5.

(1) The Bukit Timah property

20 The Husband submitted that to avoid double-counting, the court should value the Bukit Timah property (a) as at the IJ date or (b) as at the AM date, with the mortgage payments made from September 2016 to December 2018 credited to the Husband and this sum deducted from the total assets held by him.²⁰ After deducting the outstanding mortgage from the agreed gross value of \$25m, the Bukit Timah property's net value was \$5,444,581.16 as at 30 September 2016 and \$7,551,503.94 as at 31 December 2018.²¹ The Husband submitted that he paid a total of \$2,604,375.60 in mortgage payments over the period from September 2016 to December 2018 after deducting rental payments received.²²

21 The Wife argued that the net valuation should be assessed as at the AM date, since the mortgage payments had been made using joint matrimonial funds.²³ Her net valuation of the Bukit Timah property was \$7,321,452.48, derived by deducting the outstanding mortgage of \$17,678,547.52 from the gross valuation of \$25m as at September 2018.²⁴ However, she provided no supporting documentation for this figure.

²⁰ Husband's Further Supplemental Submissions dated 29 January 2019 ("HFSS") at paras 5, 7, 9.

²¹ HFSS at para 3; Husband's 4th Affidavit (Ancillary Matters) dated 22 January 2019 ("Husband's 4th AM Affidavit") at para 3 and pp 9 and 59.

²² HFSS at para 9(b); Husband's 4th AM Affidavit at para 3 and p 5; Husband's 5th Affidavit (Ancillary Matters) dated 26 February 2019 ("Husband's 5th AM Affidavit") at para 6.

²³ WWS at paras 35–36; Wife's 4th affidavit dated 14 February 2019 at paras 9–10.

²⁴ JS-2 at pp 6–7, S/N 2.

22 In the present case, I adopt the valuations closest to the AM date as there are no reasons supporting a departure from this starting point. As the Wife did not provide supporting documentation for her valuation, I derived the net valuation of the Bukit Timah property to be \$7,551,503.94, by deducting the outstanding mortgage amount of \$17,448,496.06 as at December 2018²⁵ from the agreed gross valuation of \$25m.

23 I agree in principle with the Husband's submission that he should be credited for the mortgage payments that he made. The mortgage payments were made from his OCBC Savings Account ending with 4001 (for the payments from September 2016 to March 2018),²⁶ his POSB Savings Account ending with 8892 (for the payments from June 2018 to December 2018)²⁷ and his CPF account.²⁸ The balances in these accounts that form part of the matrimonial pool were agreed to be the balances in the accounts as at the dates listed in the Husband's affidavit of assets and means:²⁹

S/No	Account	Balance
1	POSB Savings account ending with 8892	\$134,545.42 (as at 6 March 2017)
2	OCBC Savings Account ending with 4001	\$322,519.45 (as at 28 February 2017)
3	CPF Account	\$207,042.73 (as at 23 March 2017)

²⁵ Husband's 4th AM Affidavit at p 59.

²⁶ Husband's 4th AM Affidavit at pp 5, 10–28.

²⁷ Husband's 4th AM Affidavit at pp 5, 29–42.

²⁸ Husband's 4th AM Affidavit at pp 5, 51–56.

²⁹ Husband's AAM at para 9, S/N 1 and 5 and para 10; JS-2 at p 7, S/N 4.

24 The moneys that the Husband received after the dates at [23] do not form part of the matrimonial pool and should not be indirectly added to the matrimonial pool through the court's unqualified adoption of the net valuations of the Bukit Timah property based on the outstanding mortgage after March 2017. The methodology used by the parties to calculate the net valuation meant that any net valuation after March 2017 would be increased from previous net valuations as a direct result of the Husband's mortgage payments, which reduced the outstanding mortgage due.

25 However, I do not agree with the Husband that all the mortgage payments made from the IJ date (*ie*, from 20 September 2016) should be credited back to him. As the Husband agreed that the balance in his OCBC Savings Account ending with 4001 in the matrimonial pool crystallised on 28 February 2017, he should only be credited for the mortgage payments made from that account in the period from March 2017 to March 2018. The mortgage payments made from his POSB Savings Account ending with 8892 from June 2018 to December 2018 will be credited to him. Finally, as the balance in his CPF account in the matrimonial pool crystallised on 23 March 2017, only the CPF payments made after that date will be credited to him.

26 The total sum of the Husband's mortgage payments in the period from March 2017 to December 2018 that drew upon the non-matrimonial assets in his OCBC Savings Account ending with 4001, his POSB Savings Account ending with 8892 and his CPF account amounted to \$2,128,663.20. This amount will be deducted from the sum of the assets held in the Husband's name.

(2) The Keppel property

27 The Husband did not provide any net valuation of the Keppel property as he was unaware of the outstanding mortgage due. He submitted that the funds in the parties' joint POSB Savings Account ending with 5704 were used to service the mortgage of the Keppel property, and that he made deposits to this joint account from 8 February 2017 onwards using moneys in his POSB Savings Account ending with 8892. He submitted that the \$95,000.00 deposit that he cumulatively made to the joint POSB Savings Account ending with 5704 should be deducted from the assets held in his name.³⁰

28 The Wife submitted that the net valuation for the Keppel property was \$1,602,481.17, derived by deducting the outstanding mortgage of \$797,518.83 from the \$2.4m gross valuation as at December 2018.³¹ She did not provide documentation to support this net valuation.

29 As such, I derive the net valuation of the Keppel property based on the last documented outstanding mortgage sum closest to the AM date, *ie*, \$1,008,851.38 as at 1 December 2016.³² I value the property at \$1,391,148.62, by deducting this outstanding mortgage sum from the agreed gross valuation of \$2.4m.

30 The balance in the Husband's POSB Savings Account ending with 8892 that forms part of the matrimonial pool is the balance as at 6 March 2017 (see above at [23]). Since the net valuation of the Keppel property is calculated based

³⁰ Husband's 4th AM Affidavit at para 7; Husband's 5th AM Affidavit at paras 11, 13, p 30.

³¹ JS-2 at pp 4–5, S/N 2.

³² Wife's AAM at p 78.

on the outstanding mortgage sum prior to 6 March 2017 and before the Husband started making deposits to the joint account (*ie*, from 8 February 2017 onwards), my adoption of this net valuation does not indirectly add the Husband's personal non-matrimonial assets to the matrimonial pool. I therefore do not accept the Husband's submission that the \$95,000 deposit that he made ought to be deducted from the assets held in his name.

(3) Valuation of shares in [Y] Pte Ltd

31 The Husband submitted that the shares in [Y] Pte Ltd are of negligible value as the company is not currently active.³³ The Wife took the view that her 12,998 shares are valued at \$34,013.17 and that the Husband's 4,002 shares are valued at \$10,500.00, based on the profit/loss accounts of [Y] Pte Ltd.³⁴

32 There was no formal valuation of the shares in [Y] Pte Ltd, but it is not in the interests of fairness and justice to order such valuation, which would delay the resolution of the present proceedings and lead to further costs. Given the lack of evidence adduced on the Wife's part, especially as regards whether the company was even still active, I adopt a rough and ready approach towards the valuation of the shares (see *UJF v UJG* [2019] 3 SLR 178 at [53]).

33 On balance, I accept the Husband's position that the shares had negligible value. In any case, I also note that the parties acknowledged at the hearing that the amount in dispute was relatively small.

³³ JS-1 at p 5, S/N 5, and pp 7–8, S/N 6; HWS at paras 2(1)(g) and 2(1)(n).

³⁴ JS-1 at p 5, S/N 5, and pp 7–8, S/N 6.

(4) The Wife's alleged failure to make full and frank disclosure of her assets

34 The Husband made two allegations relating to the Wife's failure to make full and frank disclosure of her assets.

35 First, the Husband argued that the Wife received about \$2,345,988.00 in salary and director's fee payments from 2005 to 2017, and failed to account for these moneys.³⁵ He relied on the Wife's income tax statements from 2005 to 2009 that showed that she received director's fee payments in those years.³⁶ The Wife ceased to be a director after 2009.³⁷

36 Second, the Husband argued that the Wife deliberately failed to disclose bank statements for her POSB Savings Account ending with 1053 for the period between 4 April 2007 and 27 August 2007 in response to his discovery application. The Husband argued that she did not want to reveal that he made cheque transfers of about \$700,000.00 to her in May 2007.³⁸ No images of the cheques were available as the bank was unable to retrieve the relevant records.³⁹

37 In response, the Wife acknowledged that her salary and bonuses from [X] Pte Ltd were deposited into her POSB Savings Account ending with 1053. However, she claimed that she did not receive director's fee payments, and had not questioned the Husband's past explanations that the payments were made to

³⁵ HWS at para 5(1); Husband's 2nd Affidavit (Ancillary Matters) affirmed on 18 June 2018 ("Husband's 2nd AM Affidavit") at para 27.

³⁶ Husband's 2nd AM Affidavit at pp 14–29.

³⁷ Husband's 5th AM Affidavit at para 8.

³⁸ HWS at paras 5(3) and 5(4); Husband's 3rd Affidavit (Ancillary Matters) affirmed on 4 September 2018 ("Husband's 3rd AM Affidavit") at para 11 and pp 13–14.

³⁹ Husband's 3rd AM Affidavit at para 11.

the parties' joint bank account.⁴⁰ In any case, no supporting documents showed payment of the director's fees to her.⁴¹ At the hearing, she denied receiving any payment of \$700,000.00 from the Husband in May 2007. She explained that she could not produce the bank account statements sought as the bank only archived statements for seven years.⁴²

38 The Wife further submitted that she made adequate disclosure by disclosing the bank statements for her POSB Savings account ending with 1053 from December 2004 to February 2014, save for the period between April and August 2007.⁴³ She argued that she adequately accounted for the moneys in the POSB account, which she would have spent from over the years and from which she had made various large transactions. For instance, she transferred sums of US\$40,000.00 and US\$10,000.00 to her brother in 2013 to support his business in Cambodia.⁴⁴ The payments for the Keppel property in sums of \$278,923.95 and \$251,685.90 had also been made from this bank account.⁴⁵

39 As regards the duty to make full and frank disclosure, in *NK v NL*, the Court of Appeal held at [60] that the husband was a man of substantial means and that it defied belief that all his moneys were expended on the family or the children's education. Accordingly, it drew an adverse inference against him that his actual assets exceeded his disclosed assets.

⁴⁰ WWS at para 50; Wife's Affidavit in Summons No 670 of 2018 ("SUM 670") affirmed on 14 March 2018 ("Wife's 1st Affidavit in SUM 670") at paras 7–9.

⁴¹ WWS at para 50; Wife's Rebuttal Submissions dated 3 October 2018 ("WRS") at para 15(a).

⁴² Wife's 2nd Affidavit in Summons No 670 affirmed on 18 March 2018 at paras 4–5.

⁴³ Wife's 1st Affidavit in SUM 670 at pp 47–128.

⁴⁴ Wife's 1st Affidavit in SUM 670 at para 10, pp 130–134.

⁴⁵ Wife's 1st Affidavit in SUM 670 at para 11, pp 136–139.

40 In *BPC v BPB and another appeal* [2019] 1 SLR 608 (“*BPC*”), the Court of Appeal held at [60] that the court is entitled to draw an inference against a party who fails to comply with his or her duty of full and frank disclosure of the matrimonial assets, provided that:

- (a) there is a substratum of evidence that establishes a *prima facie* case against the person against whom the inference is to be drawn; and
- (b) that person must have had some particular access to the information he is said to be hiding.

The Court of Appeal held at [61]–[63] that the High Court was justified in drawing an adverse inference against the husband as the evidence had established a *prima facie* case against him. The High Court had rejected the husband’s explanation that no meaningful information on his income could be produced as no relevant Chinese tax documents were available. The husband also failed to account for other moneys and assets.

41 In the present case, the Wife’s income tax payments showing that she paid taxes on director’s fee payments from 2005 to 2009 must be weighed against the Husband’s failure to adduce supporting documents showing that those payments were specifically made to her POSB Bank Account ending with 1053. I also find that the Wife’s failure to produce her bank statements from April to August 2007 was not necessarily suspicious, given the length of time that has elapsed. This situation can be compared with that in *BPC*, where the Court of Appeal did not disturb the High Court’s rejection of the husband’s claim that his Central Depository (“CDP”) account contained no shares from January 2011 to March 2017. It was relevant to the High Court that the maximum period for the retrieval of the CDP statements was seven years. The

husband in *BPC* could have obtained confirmation on his shares from March 2010, but had not done so (see *BPC* at [62(b)] and [63]).

42 Regardless, even if the director's fee payments and the Husband's cheque transfer of approximately \$700,000.00 were made to the Wife, the Wife received these sums over the course of multiple years. It was agreed that she had \$603,257.68 in her bank accounts as at the AM date.⁴⁶ I accept the Wife's submission that she used her savings from the POSB Bank Account ending with 1053 for her expenses and that it was not uncommon for her to make large withdrawals from the same account. Accordingly, I find that the evidence did not establish a *prima facie* case against the Wife, and that the balance in her bank accounts as at the AM date does not indicate that she failed to make full and frank disclosure of her assets.

Summary of valuation of the assets

43 In summary, I set out in the table below (a) the parties' net valuations of the assets with disputed values and my net valuations for these properties, after liabilities have been deducted; and (b) the total value of assets in the matrimonial pool, taking into account the value of the agreed assets and the amount to be deducted from the Husband's assets (see above at [17] and [25]):

⁴⁶ JS-2 at p 5, S/N 6.

Asset	Husband's Valuation (\$)	Wife's Valuation (\$)	Court's Valuation (\$)	Reference
Wife's Assets				
Keppel property	N/A, but 95,000.00 to be deducted from assets in his name	1,602,481.17	1,391,148.62	[29]
Husband's Assets				
Bukit Timah property	5,444,581.16 or 2,604,375.60 deducted from assets in his name	7,321,452.48	7,551,503.94	[22]
Total value of disputed assets (D)			8,942,652.56	
Sum to be deducted from Husband's assets (E)			2,128,663.20	[26]
Total value of the pool [(A) + (B) + (C) + (D) – (E)]			34,098,584.55	See [17]

44 I note that the Wife holds 3,303,998 shares in [X] Pte Ltd and that the Husband holds 6,696,002 shares.⁴⁷ Based on the agreed gross valuation of [X] Pte Ltd (*ie*, \$17,697,434 above at [17]), the Wife's shareholding is valued at \$5,847,228.65 and the Husband's shareholding at \$11,850,205.35.

45 The total value of the Wife's assets is therefore set out as follows:

⁴⁷ Wife's AAM at p 529.

S/No	Description	Value (\$)
1	Faber property	5,450,000.00
2	one-north property	1,375,000.00
3	Bank accounts	603,257.68
4	CPF Account	177,721.82
5	Property in Pulau Pinang, Malaysia	116,000.00
6	Keppel property	1,391,148.62
7	Shares in [X] Pte Ltd	5,847,228.65
	Total value of assets in Wife's name	14,960,356.77

46 The total value of the Husband's assets is likewise set out as follows:

S/No	Description	Value (\$)
1	Bank accounts	1,458,857.33
2	CPF Account	207,042.73
3	Property in Pekan Sepang, Malaysia	50,000.00
4	Bukit Timah property	7,551,503.94
5	Shares in [X] Pte Ltd	11,850,205.35
6	Sum to be deducted from Husband's assets	2,128,663.20
	Total value of assets in Husband's name	18,988,946.15

Division of matrimonial assets

47 The Husband submitted that the structured approach in *ANJ v ANK* [2015] 4 SLR 1043 ("*ANJ v ANK*") applied to determine the division of

matrimonial assets. The approach was explained in *TYU v TYV* [2017] SGHCF 8 (“*TYU v TYV*”) at [31] as follows:⁴⁸

- (a) express as a ratio the parties’ direct contributions relative to each other, having regard to the amount of financial contribution each party made towards the acquisition or improvement of the matrimonial assets;
- (b) express as a second ratio the parties’ indirect contributions relative to each other, having regard to both financial and nonfinancial contributions; and
- (c) derive the parties’ overall contributions relative to each other by taking an average of the two ratios above (the derived ratio shall hereinafter be referred to as ‘average ratio’), keeping in mind that, depending on the circumstances of each case, the direct and indirect contributions may not be accorded equal weight, and one of the two ratios may be accorded more significance than the other. Adjustments may also be made taking into consideration other relevant factors under ss 112 or 114(1) of the [Women’s Charter].

48 The Wife, however, argued that this was a long single-income marriage where *ANJ v ANK* did not apply, following the decision in *TNL v TNK and another appeal and another matter* [2017] 1 SLR 609 (“*TNL v TNK*”).⁴⁹

49 The Court of Appeal in *TNL v TNK* excluded the application of the *ANJ v ANK* structured approach to long “Single-Income Marriages” in order to avoid undervaluing the homemaker spouse’s indirect contributions. In such cases where *ANJ v ANK* is not applicable, the court must look at all the relevant factors in s 112(2) of the Women’s Charter and be guided by precedents: *TNL v TNK* at [44]–[45]; *UBM v UBN* [2017] [2017] 4 SLR 921 (“*UBM v UBN*”) at [39] and [55]. I first consider whether this was a Single-Income Marriage, before dealing substantively with the issue of division.

⁴⁸ Husband’s Supplemental Submissions dated 2 October 2018 (“HSS”) at para 4.

⁴⁹ WRS at paras 22–25.

Whether this was a single or dual-income marriage

50 In *UBM v UBN*, the High Court explained that a “Single-Income Marriage” is one where “one party is *primarily* the breadwinner and the other is *primarily* the homemaker” [emphasis in original] (at [50]).

51 It was not disputed that after the parties were married, the Wife worked as a beautician in Penang from 1990 to 1992, and then in Singapore from 1992 to 1995. During this period, the Husband studied in university and graduated in 1993 to work as an engineer thereafter.⁵⁰ The Wife gave birth to the parties’ first son in 1996, and subsequently engaged in freelance work. After the parties set up [X] Pte Ltd, the Wife helped with administrative work in the company until 2003, when she stopped work to become a full-time homemaker and to focus on the couple’s third son in particular, as he was frequently ill.⁵¹ The Wife was also a director of [X] Pte Ltd and received a salary from the company. The Husband also submitted that the Wife was given director’s fee payments from the company, and that she received \$2,345,988.00 in salary and director’s fee payments from 2005 to 2017.⁵²

52 It appears that the Wife worked intermittently for a period of 13 years during a marriage that lasted 26 years. I find that this was a Single-Income Marriage nonetheless. A marriage may still be classified as Single-Income even if the homemaker spouse worked for some time in a long marriage; what matters is the qualitative assessment of the roles played by the spouses relative to each

⁵⁰ Wife’s AAM at paras 22(a)–22(g); Husband’s AAM at paras 18(a)–18(c).

⁵¹ Wife’s AAM at paras 22(h)–22(i), 22(r), 22(t)–22(w); HSS at para 8; Husband’s AAM at paras 18(e), 18(j).

⁵² See HWS at para 5(1); Husband’s 2nd AM Affidavit at para 27.

other (*UBM v UBN* at [52]). As such, it was not material that the Wife might have been an employee of [X] Pte Ltd on record. As the Husband acknowledged, she ceased working at [X] Pte Ltd in 2002. After 2002, the Husband deposed that she “did not do any work” in the company and “was not entitled to any salary”.⁵³ The fact that “salary” payments were made to the Wife during the marriage did not detract from my finding that she was in actuality a homemaker and that this was qualitatively a Single-Income Marriage.

53 Indeed, the facts in this case are similar to those in *Yow Mee Lan v Chen Kai Buan* [2000] 2 SLR(R) 659 (“*Yow Mee Lan*”), which was classified as a long Single-Income Marriage by the Court of Appeal in *TNL v TNK* at [51] and discussed in *UBM v UBN* at [51] and [52]. In *Yow Mee Lan*, the marriage stretched over 26 years and the wife worked continuously during the marriage, first for third parties and subsequently for the husband himself. The wife was working from the time of the marriage, but stopped work intermittently to care for the couple’s first and second child. She was the main caregiver throughout, as the husband travelled for work and was the main income-earner. The wife “played a supporting role in the family business owned by the husband” and “did not have either the knowledge or the talent which the husband did and could not herself have produced the substantial income he was able to generate” (*Yow Mee Lan* at [42] and [46]). The High Court in *UBM v UBN* considered a marriage such as this, where there was a clear demarcation of responsibility under which the husband focused entirely on his business with success and the wife supported him by running the household, to be a Single-Income Marriage (at [52]).

⁵³ HWS at para 6; Husband’s 2nd AM Affidavit at paras 2 and 27.

54 Here, although the Wife worked as a beautician and carried out some freelance work for a few years and performed administrative work for [X] Pte Ltd during the marriage, the following facts tilted the balance towards a finding that she was the primary homemaker in the marriage and that there was a clear demarcation of responsibilities between the couple:

- (a) First, after stopping work as a beautician in 1995, the Wife no longer had a stable form of independent employment, first working as a freelancer and then supporting the couple's business in [X] Pte Ltd through administrative and invoicing work carried out on a part-time basis (two to three hours a day for two to three days a week).⁵⁴
- (b) Second, the Wife's decisions to stop work from 1996 to 2003 were always centred around the need to care for her new-born children (albeit aided by a domestic helper at times). She only returned to freelance or part-time employment when the children grew slightly older.
- (c) Finally, after the birth of the parties' third son, the Wife chose to stop working permanently in order to devote herself to caring for their children, especially given that their third son had medical issues.

The Husband noted that he also helped out with the children: he volunteered at their schools, arranged tuition classes, sent them to school and spent time with them on the weekends.⁵⁵ While I acknowledge that he sought to balance between his work and family responsibilities, this does not change the fact that his

⁵⁴ Husband's AAM at para 18(j).

⁵⁵ Husband's AAM at para 18(m)–18(o).

primary focus was on building his businesses and that his substantial contribution to the family was through his breadwinning role in running the company that brought the family wealth. Relative to this role, the Wife was the main homemaker.

The appropriate division ratio

55 Following from my finding that this was a long Single-Income Marriage, the law as articulated in *TNL v TNK* at [46] requires that I do not apply the *ANJ v ANK* approach. In long Single-Income Marriages, the courts tend towards an equal division of the matrimonial assets (*TNL v TNK* at [48]). The trends in cases of long marriages with children similarly incline towards equal division (*UBM v UBN* at [66]).

56 As I observed in *UTS v UTT* [2019] SGHCF 8 at [26], this approach has been applied in a number of cases, like *UMU v UMT and another appeal* [2019] 3 SLR 504 (involving a 22-year marriage where the wife worked a number of years drawing a relatively low income; she received 45% of the assets) and *UKA v UKB* [2018] 4 SLR 779 (involving a 28-year marriage with four children, where the husband similarly built and ran the company that was the source of the family's wealth; the High Court found that the marriage was an equal partnership of different efforts and ordered equal division). The court may, however, depart from an equal distribution where the asset pool is exceptionally large: see the comments in *TNL v TNK* at [52] that rationalised the 65:35 distribution in *Yeo Chong Lin v Tay Ang Choo Nancy and another appeal* [2011] 2 SLR 1157 in favour of the husband on the basis that the exceptionally large size of the asset pool (amounting to around \$69m) was a major factor in the court's analysis.

57 In the present case, the division of assets should similarly tend towards an equal distribution between the parties. The Wife was the primary caregiver of the children with the assistance of a domestic helper, and it was through her homemaking contributions that the Husband could focus on building [X] Pte Ltd and his other companies. But I note the relatively large size of the asset pool. Furthermore, [X] Pte Ltd, which was started during the marriage, was responsible for most of the asset enhancement through the Husband's efforts and accounts for slightly over half of the asset pool. At the same time, the evidence showed that the Wife provided funds to [X] Pte Ltd from her own accounts during the initial periods, even though the Husband claimed to have subsequently reimbursed her.⁵⁶ I am also satisfied that the Husband did play his part at home whenever he could.

58 In the circumstances, I order distribution in the proportions of 55:45 between the Husband and the Wife.

Apportionment of the matrimonial assets

59 As stated above at [43], the total value of the matrimonial assets came up to \$34,098,584.55. Applying a 55:45 distribution, the respective shares of the Husband's and Wife's shares of the matrimonial assets would translate to \$18,754,221.50 (55%) and \$15,344,363.05 (45%) respectively. After deducting the assets held by the Wife (*ie*, \$14,960,356.77, see above at [45]), \$384,006.27 (being \$15,344,363.05 - \$14,960,356.77) remains payable to the Wife. I set a time frame of six months for the Husband to make the necessary transfers, which is to take into consideration how the terrace house in Johor, Malaysia, will be dealt with and accounted for.

⁵⁶ Wife's AAM at para 22(u); Husband's 2nd AM Affidavit at para 17.

60 I note that this distribution allows each party to retain the assets held in his or her own name. Such an order minimises the transaction costs incurred, but will require the Wife to take over from the date of this judgment the payment of all liabilities in her own name, including the mortgage of the Keppel property (which the Husband claims he contributed to, albeit through deposits made to the couple's joint account) and the property tax payments for the Faber, one-north and Keppel properties, which the Husband has been paying for pursuant to the Consent Order.

61 For completeness, I address the Wife's submission that the court should make logistical orders similar to those made in *TZG v TZH* [2017] SGHCF 9 ("*TZG v TZH*").⁵⁷ In *TZG v TZH*, the High Court ordered at [4(d)] that a dental practice which the husband and wife had set up together be divided in the ratio of 55:45 between the wife and the husband, and that the husband was at liberty to propose a buy-out offer price to the wife. If no buy-out offer was made or accepted, the company was to be put up for sale in the open market to a third party or, alternatively, liquidated.

62 I do not think such orders are appropriate or necessary in the present case. In *TZG v TZH*, what was crucial was that the parties were both dentists actively involved in the running of their shared dental practice, with the husband being the designated Clinical Director and working more clinical hours, and the wife designated as the Administrative Director and taking charge of the financial and administrative aspects of the practice (at [11] and [32]). In making the relevant logistical orders, the High Court was concerned that the parties' acrimony would cause the value of their dental practice as a going concern to

⁵⁷ WWS at paras 79–80.

be progressively reduced, the longer a decision on its future remained in doubt (at [49]). In contrast, the Wife here has not been involved in the running of [X] Pte Ltd and the divorce and any acrimony between Husband and Wife are unlikely to pose any problems to the operation of the company.

63 Furthermore, while the Wife is concerned that her shares in [X] Pte Ltd are not freely transferable and would not be easily sold in the open market,⁵⁸ the Husband appears to intend to buy out the Wife's share in [X] Pte Ltd, although I understand that he may need time to raise the funds to do so.⁵⁹ It is therefore open to the Husband to make a buy-out offer of the Wife's shares on the basis of the agreed valuation of the company or at another agreed price, and for her to accept such an offer. In the event this does not come to pass within a time frame of six months, I grant liberty to parties to apply to court for any further orders necessary.

Maintenance for the Wife

64 Maintenance ordered pursuant to s 114 of the Women's Charter endeavours to place the parties in the financial position in which they would have been if the marriage had not broken down. The court's power to order maintenance plays only a supplementary role to its power to order a division of matrimonial assets, and the court will take into account a wife's share of the matrimonial assets upon division when assessing the appropriate quantum of maintenance to be ordered: *ATE v ATD and another appeal* [2016] SGCA 2 ("*ATE v ATD*") at [31]–[33]. The Wife submitted that she should receive a lump

⁵⁸ WWS at para 78.

⁵⁹ See HSS at para 10; Husband's 2nd AM Affidavit at para 38.

sum maintenance of \$2m, *ie*, 5% quantum of a projected \$42m asset pool.⁶⁰ The Husband's position was that maintenance should not be ordered.⁶¹

65 In the present case, the significant portion of matrimonial assets (*ie*, \$15,344,363.05, see above at [59]) awarded to the Wife is a key factor. The Faber property, which she will retain in her sole name, is the matrimonial home.⁶² Moreover, the rental income that she will receive from the Keppel, one-north and Pulau Pinang properties will be a substitute for reasonable maintenance from the Husband. Although the Wife also highlighted the fact that she received \$10,000.00 a month pursuant to the Consent Order and enjoyed a "lavish" lifestyle while married,⁶³ such factors are not determinative under s 114(1) of the Women's Charter when deciding the amount of maintenance. Ultimately, the overarching principle embodied in s 114(2) of the Women's Charter is that of financial preservation: see *ATE v ATD* at [31].

66 On the other hand, I note that the Wife is 50 years old this year and has not worked in a full-time capacity since 1996. Her opportunities for employment may thus be limited. The Husband has been maintaining the properties in the Wife's name to a sum of approximately \$3,677.00 a month (see also above at [60]).⁶⁴ A large proportion of the Wife's assets, being the shares in [X] Pte Ltd, will be illiquid pending any transfer of the shares to the Husband, which may or may not come to pass. This was also a long marriage lasting 26 years where the Wife raised three children.

⁶⁰ WWS at para 77.

⁶¹ HWS at para 6(12); HSS at para 10.

⁶² Wife's AAM at para 21(a).

⁶³ WWS at paras 70, 72–73.

⁶⁴ WWS at paras 67–68; Husband's AAM at para 13.

67 Accordingly, while I acknowledge that the Wife will receive a substantial portion of the matrimonial pool, it remains fair that she should be given a sum of maintenance to tide her over until she receives her full share of the matrimonial assets. I therefore order the Husband to pay the Wife monthly maintenance of \$4,000.00 for six months. This is because he has up to six months to transfer \$384,006.27 to her (see [59] above) and to buy her shares in [X] Pte Ltd (see [63] above). Parties shall have liberty to apply to court for a determination on whether the maintenance period should be increased in the event that the transfers are still not completed after the six-month period elapses.

Costs

68 Costs are generally not ordered in matrimonial cases, even though the court may do so in appropriate cases: *TYU v TYV* at [45]. This was not a case where the conduct of the parties was such as to require the court to order costs against a particular party to incentivise good litigation conduct: *TYU v TYV* at [45]; *JBB v JBA* [2015] 5 SLR 153 at [33].

69 I encourage the parties to agree on the issue of costs, including considering the option of each of them bearing their own costs. If there is no agreement, parties are to file and exchange submissions on the issue of costs (limited to ten pages) within 21 days from the date of this judgment.

Conclusion

70 For the reasons above, I make the following orders:

- (a) Distribution of the matrimonial assets in the proportions of 55:45 between the Husband and the Wife, with the Husband to transfer

\$384,006.27 to the Wife within six months from the date of this judgment.

(b) The Husband is at liberty to propose in writing to the Wife a buy-out offer price (with terms and conditions) of her shareholding in [X] Pte Ltd, on the basis of the agreed valuation of the company or at another agreed price. Should no offer be made within six months, or if such an offer is made but not accepted by the Wife within the same time frame, liberty is granted to parties to apply for further orders.

(c) The Husband is to pay the Wife monthly maintenance of \$4,000.00 for six months from the date of this judgment.

(d) Liberty to apply.

Tan Puay Boon
Judicial Commissioner

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Chambers LLC) for the plaintiff;
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