

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2019] SGHCF 6

HCF/Divorce (Transferred) No 5269 of 2011

Between

UTJ

... Plaintiff

And

UTK

... Defendant

JUDGMENT

[Family Law] — [Divorce] — [Ancillary Matters]] — [Division of
matrimonial assets]] — [Maintenance of wife]

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UTJ

v

UTK

[2019] SGHCF 6

High Court (Family Division) — Divorce (Transferred) No 5269 of 2011
Tan Puay Boon JC
18, 19 April, 7, 18 May 2018

7 March 2019

Judgment reserved.

Tan Puay Boon JC:

Introduction

1 This is a divorce involving two septuagenarians (“the Parties”). They had registered their marriage in Singapore in late 1974, and have a son (“the Son”) who is now in his forties. He is married and has a son (“the grandson”). The Plaintiff (“the Wife”) commenced divorce proceedings against the Defendant (“the Husband”) on 2 November 2011 on the ground that he had behaved in such a way that she could not reasonably be expected to live with him (“unreasonable behaviour”). While the Husband did not dispute that the marriage had broken down, he contested the Wife’s claim and filed a counterclaim that the marriage should be dissolved on two grounds – the Wife’s unreasonable behaviour, and that Parties had lived apart for a continuous period of at least 4 years immediately preceding the filing of the Writ.

2 Interim Judgment was eventually granted on 29 May 2015 to dissolve the marriage on both the claim and counterclaim based on the grounds of the Parties' respective unreasonable behaviour, some 41 years after the marriage was registered. The ancillary matters of the division of the matrimonial assets, including the matrimonial home, maintenance for the Wife, and costs were adjourned to chambers.

Background of the Parties

3 The Husband is a director at a company which is in the business of printing and publishing. The Wife used to be a primary school teacher until her retirement in June 2004.¹

4 The Parties were engaged to be married in 1969. However, due to certain events which interrupted the Husband's life from September 1970 to December 1973, the Parties were only married in Singapore in 1974.² The Son was born in 1975, and he was looked after by the Wife's mother until 1989.³

5 The Parties purchased as their first matrimonial home a Housing & Development Board flat located in the Whampoa area. The sale proceeds from the first matrimonial home went into the purchase in 1989 of the current matrimonial home at Jalan J ("the Jalan J Property").

6 Sometime in 1978, cracks in the marriage started appearing,⁴ resulting in Parties having separate bedrooms in their matrimonial homes at different

¹ Wife's 1st affidavit of assets and means (AOM), para 2(i).

² Statement of Particulars (Amendment No 1), para 2(a).

³ Wife's 1st AOM, para 15(g), p 18.

⁴ Statement of Particulars (Amendment No 1), para 2(c).

times, for a total of 16 years.⁵ For example, on 11 December 1999, the Husband moved out of the Parties' bedroom at the Jalan J Property.⁶ In August 2003, the Parties moved to the Son's matrimonial home at Jalan B ("the Jalan B Property") so that the Parties could rent out their matrimonial home.⁷ However, in May 2005, the Husband moved back to their matrimonial home and stayed there during the weekdays and spent weekends at the Jalan B Property.⁸ In December 2010, the Wife decided to end the marriage,⁹ and filed for divorce in November 2011. Presently, the Wife lives with the Son at the Jalan B Property and the Husband lives at the Jalan J Property.

7 Following the Wife's application on 15 July 2015 for interim maintenance of \$4,000 per month, the High Court, on appeal, ordered the Husband to pay her \$2,000 per month backdated to commence from 1 August 2015.

8 There was a long delay between the commencement of divorce in 2011 and the grant of Interim Judgment in 2015. This was because of the number of amendments to the pleadings by the Parties, and the long time they took to amend them. For example, the Defence and Counterclaim that was first filed on 12 March 2012 was amended on 9 May 2012 and then again on 12 January 2015.

9 After Interim Judgment was granted, the Parties filed 3 applications for discovery and interrogatories, and also applied for an extension of time to file

⁵ Husband's Written Submissions dated 9 April 2018, para 7.

⁶ Statement of Particulars (Amendment No 1), para 2(d).

⁷ Statement of Particulars (Amendment No 1), para 2(h).

⁸ Statement of Particulars, para 2(j).

⁹ Statement of Particulars, para 2(l).

responses. In addition, the Parties filed applications to strike out affidavits, to appoint an independent forensic accountant, and to file further affidavits. The Parties attended mediation twice as well. In the result, the hearing for the ancillary matters took place only in April and May 2018. At the time of the ancillary matter hearing, the Husband was 77 years old and the Wife was 72 years old.

Matters in dispute

10 In the present case, the contested ancillary matters are the division of matrimonial assets and the maintenance of the wife.

Division of matrimonial assets

The legal principles

11 The power of the Court to order the division of matrimonial assets (which are defined in s 112(10) of the Women's Charter (Cap 353) ("WC")) is provided for in s 112(1). The considerations that are to be taken into account when making the division are set out in s 112(2), and include the matters that are relevant for the assessment of maintenance of the wife, as set out in s 114(1). These provisions are well known, and will not be reproduced here.

12 In *NK v NL* [2007] 3 SLR 743 ("*NK v NL* (2007)") (at [31] – [33]), the Court of Appeal discussed two distinct methodologies that have been applied in the case law in the division of matrimonial assets – the global assessment methodology and the classification methodology. The global assessment methodology "consists of four distinct phases: viz, identification, assessment, division and apportionment". The classification methodology involves "an assimilation of all four of the above steps into a broad judicial discretion which, in the first instance, separately considers and divides classes of matrimonial

assets”. The Court of Appeal explained that while there is “much to be said for either method, both of which are consistent with the legislative framework provided by s 112 of the Act”, in the final analysis, the court should apply the methodology that achieves the paramount aim of ensuring that the matrimonial assets are divided in a just and equitable manner (at [33]). For the reasons set out later in this judgment at [54] to [55], I have applied the global assessment methodology in the division of the matrimonial assets of the Parties.

Identification and Assessment of the matrimonial assets

13 I deal first with the identification of the matrimonial assets and the assessment of their net values. Parties are agreed that subject to the updates of the valuations of two Singapore properties, viz the Jalan J Property and the Jalan B Property, the assessments of the matrimonial assets will be based on valuations produced around 2015, when Interim Judgment was granted.¹⁰

Agreed Assets

14 The Parties had signed a Joint Summary of Relevant Information on 6 April 2018. Of the various assets that were listed, the total value of those assets which were agreed to be matrimonial assets, where there were also agreed valuations, was \$2,256,667.53. These assets are set out in the table below.

S/No.	Description	Value (\$)
	Jointly-held assets between Wife and the Son	
1.	POSB Account No ending with 7029	304.27

¹⁰ Notes of Argument dated 18 April 2018, p 1.

S/No.	Description	Value (\$)
	Sub-total (A)	304.27
	Wife's Assets	
2.	Honda car	25,011.00
3.	AIA Life Endowment Special Policy No ending with 0209	28,807.92
4.	POSB Savings Account No ending with 3798	7,954.06
5.	UOB Savings Account No ending with 0772	190.71
6.	Jewellery (Self-purchased)	30,620.00
7.	CPF Medisave Account	14,753.46
	Sub-total (B)	107,337.15
	Husband's Assets	
8.	CPF Ordinary Account	452.77
9.	CPF Special Account	360.07

S/No.	Description	Value (\$)
10.	CPF Medisave Account	47,923.97
11.	CPF Retirement Account	0.03
12.	Citibank Account No ending with 3004	76,150.34
13.	Citibank Account No ending with 3012	2,206.52
14.	Citibank Account No ending with 3039	USD 55,305.94 ≈ 74,624.30
15.	Citibank Account N. ending with 0141	AUD 199,810.50 ≈ 200,639.51
16.	National Australia Bank Account No ending with 9284	AUD 125,497.07 ≈ 125,297.07
17.	Citibank Account No ending with 5445	INR 995,024.07 ≈ 25,812.52
18.	Citibank Account No ending with 0447	INR 51,132.57 ≈ 1,104.46
19.	Maybank Account No ending with 8852	RM 36,857.36 ≈ 12,114.58
20.	DBS Autosave Account No ending with 625-9	55,633.06
21.	POSB Passbook Savings Account No ending with 1119	4,009.05

S/No.	Description	Value (\$)
22.	POSB Passbook Savings Account No ending with 7358	76,988.75
23.	Citibank Singapore Maxisave Account No ending with 7108	101,157.01
24.	TCC – S1 Subscription Account	59,540.00
25.	TCC – S2 Account	1,582.52
26.	Company A	107,160.00
27.	Company B	49,329.00
28.	Craft Print shares	70.00
29.	Datapulse Tech shares	1,040.00
30.	Digiland Intl shares	1.80
31.	IP Softcom	4,200.00
32.	K1 Ventures	2,475.00
33.	Singtel	801.80
34.	AllianceBernstein – American Income Portfolio AT-AUD (H)	544,893.51

S/No.	Description	Value (\$)
35.	FTIF – Templeton Global Bond A MDIS – SGD (H1)	270,262.77
36.	FTIF – Franklin High Yield A MDIS – SGD (H)	246,695.70
37.	Diamond ring	10,000.00
38.	Gold bracelet	2,000.00
39.	6 gold coins	2,000.00
40.	Baume & Mercier watch	4,000.00
41.	Rolex watch	13,500.00
42.	Rolex watch	13,000.00
43.	Rolex watch	12,000.00
	Sub-total (C)	2,149,026.11
	Total [(A) + (B) + (C)]	2,256,667.53

Note: USD – United States Dollars

AUD – Australian Dollars

INR – Indian Rupees

RM – Malaysian Ringgit

≈ – equivalent to

15 I have omitted from the above table two items that were listed as agreed matrimonial assets which also had agreed valuations in the Joint Summary of Relevant Information. The first is the Husband's shareholding in Company C. While listed under the "Agreed valuation" column, later written submissions from the Wife disputed the value of this asset. I will therefore deal with this item separately below. Parties had further agreed that an item listed as "Gold Vinyagar Ring with some Precious Stones" was a matrimonial asset, but further agreed that this asset was "Value Unknown". In those circumstances, I took the monetary value of this item as being *de minimis* and ascribed zero value to it. This item, together with other items that the Parties agreed to be of \$0.00 in value, have been omitted from the above table.

Disputed Assets/Assets with disputed values

16 Set out in the table below are the assets that the Parties either disputed were matrimonial assets and/or disputed their values:

S/No	Description
	Assets held in Parties' joint names
1	Jalan J Property
2	POSB Bank Account No ending with 8107
	Assets held in Wife and Son's joint names
3	Jalan B Property

S/No	Description
	Assets held in the Wife's sole name
4	AIA Dollars for Life (CPF MSS) Policy No ending with 7018
5	Jewellery given by Husband ¹¹
6	Retirement Gratuities
7	Sale proceeds of shares
8	Gold bars and souvenir coins
	Assets held in Husband and Son's joint names
9	Johore Property
	Assets held in the Husband's sole name
10	Company C
11	Company D
12	Company E

¹¹ Joint Summary of Relevant Information, pp 7 and 8.

S/No	Description
13	Motor Vehicle – Mercedes Benz
14	London Property
15	Sale proceeds of Race Course Road Property

I will deal with these in turn.

Assets jointly owned by the Parties

Jalan J Property

17 The Parties had agreed that the Jalan J Property which they held as joint tenants formed part of the matrimonial assets but could not agree on the valuation. The Husband claimed its value to be \$3,500,000 and the Wife claimed its value to be \$3,430,000, based on valuation reports they had earlier obtained. As both valuation reports were prepared some three years ago, I ordered a revaluation of this property by a valuer appointed by the court from a list of valuers they proposed. The valuation obtained was \$3,350,000 as at 28 June 2018, and I adopt this as the valuation of the Jalan J Property.

POSB Bank Account No ending with 8107

18 The Parties agreed that the money in this account formed part of the pool of matrimonial assets but could not agree on the amount to be included. The Husband submitted that it was \$51.21, while the Wife submitted that it was \$260.75.¹² Since the Wife acknowledged that there were no transactions in the

account after 31 December 2016,¹³ I will take the value of \$51.21, which was the account balance on that date, being the value closest to the date of the ancillary matters hearing. As the Court of Appeal in *Yeo Chong Lin v Tay Ang Choo Nancy* [2011] 2 SLR 1157 held at [39], once an asset “is regarded as a matrimonial asset to be divided, then for the purposes of determining its value, it must be assessed as at the date of the hearing”. This approach has also been endorsed by the Court of Appeal in *TND v TNC* [2017] SGCA 34 (“*TND v TNC*”). While not a hard and fast rule (see *TDT v TDS* [2016] 4 SLR 145), a departure has to be justified on the facts (see *TND v TNC* at [22] – [23]). There is none in the present case to suggest that the value of \$260.75 should be used instead.

Assets jointly owned by Wife and the Son

Jalan B Property

19 The Parties had agreed that the Jalan B Property formed part of the matrimonial assets but could not agree on the valuation. The Husband submitted that as this property was held by the Wife and the Son as joint tenants,¹⁴ she should only be entitled to half of his valuation of \$4,170,000, *ie*, \$2,085,000.¹⁵ The Wife on the other hand submitted that the full amount of her valuation of \$4,170,000 should be taken,¹⁶ although she submitted during the hearing that it was her half share that was to be divided.¹⁷ As both valuation reports were

¹² Joint Summary of Relevant Information, p 4.

¹³ Wife’s 2nd AOM dated 10 October 2017, pp 6, 104 and 105.

¹⁴ Notes of Argument dated 18 April 2018, p 4.

¹⁵ Husband’s written submissions dated 9 April 2018, p 10, para 21.

¹⁶ Wife’s written submissions dated 9 April 2018, p 20, para 43.

¹⁷ Notes of Argument dated 18 April 2018, p 3.

prepared some three years ago, I ordered the Jalan B Property to be revalued. The same court appointed valuer valued it at \$4,200,000 as at 28 June 2018, and I adopt this as the valuation of the Jalan B Property. Since the Wife and the Son are joint tenants of this property, in the absence of any evidence of what their respective beneficial interests are, I take each of them to hold a half share in the property. I will therefore use \$2,100,000 as the value of the half share of the Jalan B Property that is part of the matrimonial assets.

Assets owned by the Wife

AIA Dollars for Life (CPF MSS) Policy No ending with 7018¹⁸

20 The Parties agreed that this policy formed part of the pool of matrimonial assets but could not agree on the value of the AIA Dollars for Life account under which the Wife receives a monthly annuity payment of \$376.84 for life. The Husband submitted that the value should be \$30,402.92 after taking into consideration the last monthly pay out of \$376.84 made on 18 September 2017.¹⁹ The Husband's value was derived from deducting \$42,206.08, the total of the amounts withdrawn (up until 18 September 2017), from the premium sum of \$72,609.00. The Wife on the other hand submitted that the value should be \$33,417.64, but did not provide any such calculation or information on the date on which the value was calculated. Given those circumstances, I found it fair to adopt the Husband's value of \$30,402.92.

Jewellery given by the Husband

21 Parties were agreed that the jewellery given by the Husband to the Wife formed part of the matrimonial assets. The Husband did not exhibit any

¹⁸ Wife's 1st AOM dated 30 July 2015, pp 128 to 139.

¹⁹ Wife's 2nd AOM dated 10 October 2017, pp 6 and 96.

documentary evidence such as receipts to show the values of the gifts, but merely stated estimated values which totalled \$50,800.²⁰ However, the Wife disputed the Husband's valuation and had marked the value of the jewellery as "Not Known" in the Joint Summary of Relevant Information.²¹ While one who asserts the fact bears the burden of proving the fact exists, I do not think it would be equitable to just assign no value to the 29 items of jewellery which include the wedding gold Thali and chain, two Rolex gold watches, and many gold items. I would therefore use \$30,620 (the same amount that was accepted as the value of the Wife's 23 items of jewellery) as their value.

Retirement Gratuities

22 The Wife received \$634,148.08 on 30 June 2004 when she retired as a teacher. This was an agreed valuation, but the Parties disputed whether this sum ought to be added to the pool of matrimonial assets.

23 The Wife submitted an itemised table to show how the sum of \$628,176.24 was spent from 30 June 2004 to July 2015.²² Essentially, her point was that the sums had been expended prior to the date of the divorce proceedings. The Husband submitted that the Wife made large lump sum withdrawals from the retirement gratuities over the years and highlighted the Wife's feeble response of not recalling the details of what these large lump sum withdrawals were for.²³ The Husband also submitted that since he had been giving the Wife monthly maintenance of \$2,000 until December 2011, the

²⁰ Husband's 2nd AOM dated 9 October 2017, para 71 and pp 92 and 93.

²¹ See also Wife's 1st AOM dated 3 February 2016, pp 72 and 73.

²² Wife's 1st compliance affidavit dated 3 February 2016, pp 72 and 73.

²³ Wife's 1st voluntary affidavit, p 85.

amounts which the Wife spent from her retirement gratuities were not credible.²⁴

24 Some of the items in the Wife's table were not supported by documentary evidence. Where the Wife had exhibited documentary evidence, certain of the documents were not readable or were without any explanation on what they were. Hence, I will not take them into consideration.

25 After reviewing all documents exhibited by the Wife, I note that only approximately \$475,995 out of the \$634,148.08 has been accounted for in the exhibits. A large proportion of the items listed consisted of household expenses which the Wife incurred on a daily basis. Given that the Husband has been providing the Wife a monthly maintenance of \$2,000 since 1999²⁵ until December 2011, it is not reasonable to find that the entire sum of \$475,995 was paid entirely out of the Wife's retirement gratuities. The Husband would have contributed a total of \$180,000 (being \$2,000 x 90) from June 2004 to December 2011.

26 In light of the above, I find that the amount of \$295,995 (being \$475,995 minus the \$180,000 contributed by the Husband) was spent by the Wife from the retirement gratuities. I therefore add \$338,153.08 (being \$634,148.08 - \$295,995.00) from the retirement gratuities into the pool of matrimonial assets.

Sale proceeds of shares

27 Parties agreed that the valuation of this item is \$110,485.03. However, the Wife disputed that this item should be added to the pool of matrimonial

²⁴ Husband's written submissions, p 28, para 69.

²⁵ Wife's Brief Skeletal Submissions dated 19 April 2018, para 4.

assets. The Wife submitted that the sale proceeds of the shares should be considered together with her retirement gratuities, where the breakdown on how it was spent has been disclosed together with how the retirement gratuities was spent.²⁶ The Wife further submitted that the Court should consider the purchase price of the shares and the price at which the shares were sold, as it would show that the Wife suffered losses of \$114,894.20 instead.²⁷ In contrast, the Husband submitted that shares were purchased during the marriage and sold shortly after divorce proceedings were commenced, and the amount of \$110,485.03 was received.²⁸ The Husband also submitted that although the Wife alleged that the sale proceeds went into POSB account ending with 3798,²⁹ the balance in that account is only \$7,954.06. Therefore, the Husband submitted that the Wife had not properly accounted for the sum of \$110,485.03.³⁰

28 Based on the evidence produced by both Parties, I find that the Wife did not adequately explain where the sale proceeds of the shares went, and these should be returned to the pool of matrimonial assets. Except for the Allgreen shares that were disposed of for \$11,134.39 on 31 May 2011, all the shares were disposed of by the Wife after the writ was filed in November 2011.³¹ In *TNL v TNK* [2017] 1 SLR 609 (“*TNL v TNK*”), the Court of Appeal held at [24] that when divorce proceedings are imminent, substantial expenditures incurred by one spouse, whether by gift or otherwise, without the consent of the other spouse should be returned to the asset pool. This is regardless of whether the

²⁶ Joint Summary of Relevant Information dated 6 April 2018, p 15.

²⁷ Wife’s written submissions dated 9 April 2018, p 22, paras 47– 48.

Wife’s 1st AOM dated 30 July 2015, p 7, para 7 and Husband 2nd AOM dated 9 October 2017, p 31, para 69.

²⁹ Wife’s written submissions dated 9 April 2018, p 24, para 54.

³⁰ Husband’s written submissions dated 9 April 2018, p 32, para 77.

³¹ Wife’s written submissions dated 9 April 2018, p 21, para 46.

expenditure was a deliberate attempt to dissipate matrimonial assets or for the benefit of children. Here, the shares were disposed of by the Wife shortly before or soon after the writ was filed, and no adequate explanation was provided on where the sale proceeds went. Accordingly, the amount of \$110,485.03 will be added into the pool of matrimonial assets. In so deciding, I do not accept the Wife's submission that this amount should not be included in the pool of matrimonial assets because she had suffered a loss upon the sale of the shares. This is because it is the current value of the asset, as represented by sale price, that has to be divided. If the Wife is correct, then any asset that has depreciated in value would never be available for division, irrespective of the current value. By way of illustration, if the value of the only asset of a divorcing couple that was purchased for \$2 million has dropped to \$1 million, it would not be included in the pool of matrimonial assets for division, and will be retained by the spouse in whose name it belongs. This would not be correct.

Gold bars and souvenir coins

29 The Husband submitted that he had left some gold bars and souvenir coins in his room in the Jalan B Property before he moved out but has since been unable to find them. Thus, the Husband alleged that the Wife took them.³² He has valued these items at \$560,000. The Wife submitted that the Husband's allegation was not supported by any documentary evidence hence it should be disregarded.³³ I agree with the Wife's submissions as there was no documentary evidence, not even photos of the alleged gold bars and souvenir coins. Moreover, the Wife was not the only person who had access to the Jalan B

³² Husband's written submissions dated 9 April 2018, p 32, para 78.

³³ Wife's written submissions dated 9 April 2018, p 22, paras 50 – 52.

Property.³⁴ I will therefore not include the alleged gold bars and souvenir coins in the pool of matrimonial assets.

Assets owned by the Husband

Johore Property

30 In *UDA v UDB and another* [2018] 1 SLR 1015 (“*UDA v UDB*”), the Court of Appeal held that s 112 of the WC does not confer power upon the court to adjudicate a third party’s claim to an alleged matrimonial asset or make orders against the third party in respect of that asset. It sets out the following options in cases where an asset legally owned by a third party is alleged by one or both spouses to belong beneficially to them:

56 If the property is legally owned by the third party, then the following options will be available to the court and the spouses.

(a) First, the spouse who claims the property to be a matrimonial asset may obtain legally binding confirmation from the third party that this is so and an undertaking that the third party would respect and enforce any order that the court may make relating to the beneficial interests in the property.

(b) If this is contested, either that spouse or the other who is asserting that the property belongs beneficially to the third party would have to start a separate legal action to have the rights in the property finally determined, vis-à-vis the third party, in which case the s 112 proceedings would have to be stayed until the rights are determined. This would be Option 2.

(c) The third possibility would be for the spouse to drop his or her claim that the property is a matrimonial asset and allow the s 112 proceedings to continue without it.

(d) Alternatively, that spouse may ask the court to determine whether the asset is a matrimonial asset

³⁴ Notes of Argument dated 18 April 2018, p 5.

without involving the third party's participation at all or making an order directly affecting the property. This is Option 1.

57 In respect of [56(d)] above, the family justice court should only take Option 1 if both spouses agree to it, as this course could result in the disputed asset being treated as a matrimonial asset and adjustments being made in the division of other assets to account for its value when in separate proceedings later it may be determined that the third party was both the legal and the beneficial owner of the property and neither spouse had any interest in it at all ...

31 The Husband submitted that the Johore Property was purchased by him in April 2011³⁵ with the intention of gifting it to the Son fully but was purchased in joint names with the Son for administrative purposes.³⁶ The Husband further submitted that the Wife never contributed financially to the property and it thus should not be a matrimonial asset.³⁷ The Wife submitted that the Husband's purported intention of gifting the Johore Property to the Son has not been realised by any document, deed or agreement. Thus, the Husband may change his mind at any point after this ancillary matter hearing to not gift the property to the Son. Accordingly, the Wife submitted that this property should be deemed as a matrimonial asset.³⁸

32 Section 112(10)(b) of the WC defines "matrimonial asset" as any other asset of any nature acquired during the marriage by one party or both parties to the marriage. Hence, the Johore Property may be considered a matrimonial asset even though the Wife did not contribute financially to the property.

³⁵ Husband's 2nd AOM, para 58.

³⁶ Husband's written submissions dated 9 April 2018, p 14, para 29.

³⁷ Husband's written submissions dated 9 April 2018, p 14, para 29.

³⁸ Wife's written submissions dated 9 April 2018, p 27, paras 59 – 61.

33 Applying *UDA v UDB*, the option in [56(a)] is not available because the Husband contested the Wife's assertion, and Wife did not commence legal proceedings as contemplated in [56(b)]. Since the Wife did not want to drop the claim, the option in [56(c)] is also not viable. The option in [56(d)] is out as well as the Husband was not agreeable to it. Even though the Johore Property is held by the Husband and the Son as joint tenants,³⁹ as the Johore Property was bought in April 2011, which was just before divorce proceedings commenced, I would treat the entire Johore Property as a matrimonial asset. I therefore add the agreed value of \$636,527.04⁴⁰ to the pool of matrimonial assets (see *TNL v TNK*, at [24]).

The Husband's companies

34 The Husband referred to *Ong Boon Huat Samuel v Chan Mei Lan Kristine* ("*Ong Boon Huat Samuel v Chan Mei Lan Kristine*") [2007] SLR(R) 729, where the Court of Appeal held that the court can exercise its discretionary power to exclude a property acquired during the marriage from the pool of matrimonial assets where there is good reason to do so (at [25] to [26]).

35 The Husband submitted that the companies were fully acquired and managed by him and there was a complete lack of involvement of the Wife in them. She was also disinterested in them, and sought to distance herself from any liabilities resulting from the operation of the companies. When one of the companies was in need of financing during the recession in 2000, the Wife had refused to act as a guarantor so that he could obtain financing to sustain the company, stating that "in business anything can happen, and that was the

³⁹ Wife's written submissions dated 9 April 2018, p 26, para 58.

⁴⁰ Joint Summary of Relevant Information dated 6 April 2018, p 17, no 1.

recession period”.⁴¹ However, *Ong Boon Huat Samuel v Chan Mei Lan Kristine* involved a property which was purchased at a time when the parties’ relationship had deteriorated and the wife also sought to enter into a deed of settlement disclaiming all responsibilities for its purchase (see “*TNC v TND*” [2016] 3 SLR 1172, at [36]). I do not think the matters relied on by the Husband were sufficient to warrant the companies being excluded from the pool of matrimonial assets. It is not uncommon for spouses to divide their roles, with one concentrating on being the financial provider while the other concentrates on domestic matters. The refusal by the Wife to act as a guarantor was because she could not do so, being a civil servant.⁴² It can also be seen from the perspective of her preserving her financial status in case the companies did fail, so that the family could still depend on her income as a teacher. I therefore include the companies in the pool for division.

Valuation of the Husband’s companies

36 The Husband had applied for a court-appointed expert to value his companies. This was opposed by the Wife who had already appointed an expert while the Husband did not similarly do so. The Husband’s application was eventually granted, and a court-appointed expert (“the Court Expert”) was subsequently chosen and directed by the District Judge on 5 September 2016 to value the Husband’s shareholdings in the six companies as of 31 December 2016. There were no terms of reference ordered, but the scope of work was agreed between Parties.⁴³

⁴¹ Husband’s written submissions dated 9 April 2018, p 18, para 38.

⁴² Wife’s 2nd AOM dated 10 October 2017, para 66.

⁴³ Yak Chau Wei’s 1st affidavit dated 3 November 2017, p 148.

Company C

37 One of the companies, Company C, owns a leasehold property in Singapore (“Company Property”). The Court Expert valued the Company Property at \$6.4 million based on the reasons set out in the Independent Court Expert’s Valuation Report.⁴⁴ The Wife disputed the Court Expert’s valuation of the Company Property and submitted that a higher figure of \$8.5 million should be adopted instead. She said that the Court Expert considered three different methods of valuing the Company Property, the Direct Comparison Approach, the Market Approach and the Discounted Cash Flow Approach. While the Direct Comparison Approach would value the property at \$8 million, the Market Approach would value it at \$5.6 million and the Discounted Cash Flow Approach would value it at \$5.6 million, the Court Expert valued the property at \$6.4 million. The Wife submitted that this was an average valuation of the three valuations, and the Court Expert had no basis for doing so. She submitted that the value of the Company Property should instead be \$8.5 million.⁴⁵ This is because the Court Expert used a different valuation method from that used by the two other valuers earlier.⁴⁶ If the value of the Company Property is accepted as \$8.5 million, the value of the company would then be \$13,612,922. The Husband disagreed with the Wife’s suggestion for the valuation of the Company Property and submitted that the Court Expert’s valuation of \$11,506,014 should be used.⁴⁷

⁴⁴ Yak Chau Wei’s 1st affidavit dated 3 November 2017, pp 55 to 58.

⁴⁵ Wife’s written submissions dated 9 April 2018, p 11 para 22 and p 14, paras 27 – 28.

⁴⁶ Wife’s written submissions dated 9 April 2018, p 11.

⁴⁷ Notes of Argument dated 14 April 2018, p 4.

38 In *NK v NL* [2010] 4 SLR 792 (“*NK v NL* (2010)”), the Court of Appeal held at [6] that:

... a court could intervene if a court-appointed valuer does not act in accordance with his terms of reference, or if his valuation was patently or manifestly in error. This is subject to the caveat that the court would be slow to find that the valuation is in error, since by appointing an expert in the first place it has taken the position that the matter is best left to the expert.

and further held at [20] that where there are legitimate differences of opinion between experts on the valuation, it would not warrant intervention by the court.

39 I do not find that the Court Expert failed to act in accordance with his terms of reference, that his valuation was patently or manifestly in error or that the method used was wholly inappropriate for valuing shares of a private company. Indeed, the Wife acknowledged that she was not in a position to say that the Court Expert was completely wrong, but was asking the court to consider the various valuations and his reasons, and to come to its own view on the valuation. At the draft stage of his report, the Court Expert had also taken on board the views of the Wife’s expert where he agreed with them, but not others where he disagreed.⁴⁸ Thus, there was no reason not to accept the Court Expert’s valuation. The Court Expert has explained in the report the reasons behind why and how he arrived at the valuation of the Company Property at \$6.4 million,⁴⁹ and how he treated the various cash advances the Husband made to the company. After reviewing the Court Expert’s reasons for arriving at the value of the Company Property at \$6.4 million and how he valued the company, I find that the Court Expert has adequately explained how he arrived at the valuation and I agree with the Court Expert’s valuation. Accordingly, I accept

⁴⁸ Notes of Argument dated 19 April 2018, p 6.

⁴⁹ Yak Chau Wei’s 1st affidavit dated 3 November 2017, p 56.

the valuation of the Husband's shareholdings in Company C to be the Court Expert's valuation of \$11,506,014, and add it to the pool of matrimonial assets.

Company D

40 The Court Expert stated that the value of the Husband's shares in Company D is \$0. This was based on a duly executed share purchase agreement dated 19 July 2007 that showed that the Husband has sold his shares to a third party.⁵⁰ However, the Court Expert also noted that there is an annual report filed by Company D dated 2 September 2015 which indicated that the Husband still holds 8,000 shares of the company.⁵¹

41 The Wife was of the view that the share purchase agreement is at odds with Company D's annual return dated 2 September 2015, and submitted that the Husband's claim that he had "forgot" about the sale of shares when the Husband made his first affidavit of assets and means could not be true.⁵²

42 Having reviewed the evidence, I am inclined to agree with the Court Expert, as there is a duly executed share purchase agreement showing that all of the Husband's shares in Company D has been sold. As the Husband is no longer a shareholder in the company, it is up to Company D to make the necessary arrangements to remove the Husband's name from the company's profile search and not for the Husband to ensure this was the case. I therefore exclude the shares in the company from the pool of matrimonial assets.

⁵⁰ Yak Chau Wei's 1st affidavit dated 3 November 2017, p 70.

⁵¹ Husband's 3rd compliance affidavit dated 10 October 2016, pp 125 – 138.

⁵² Wife's written submissions, p 34, paras 77 -83.

Company E

43 Company E was wound up by the Husband and he closed its bank account in or around January 2012. The account had AUD 553,836.19 at the time it was closed and the Husband transferred AUD500,000 to an account of a third party to hold on trust for Company E, and AUD53,836.19 to his personal bank account. There was a suit commenced in Australia for the AUD500,000 as the amount was frozen by a third party. The Court of Appeal of Victoria, Australia held that the AUD500,000 was for repayment of a loan owed to the third party and as such it did not form part of the assets of Company E. Accordingly, Company E did not have any assets at the time it was wound up.⁵³

44 The Court Expert accepted the decision of the Court of Appeal of Victoria, Australia, and accordingly found that the Husband's shares in Company E was not worth any value.⁵⁴ I agree that the Court Expert was entitled to rely on the decision of a court which had adjudicated on the disputed sum, and therefore do not place any value on these shares when considering the pool of matrimonial assets.

Motor Vehicle – Mercedes Benz

45 The Husband had purchased the motor vehicle at a price of \$322,888. While the Parties agreed that the motor vehicle is part of the pool of matrimonial assets, the Husband submitted that the value of the motor vehicle should be \$197,888, being the price of the vehicle less the loan amount of \$197,000.⁵⁵ The Wife submitted that the amount should be \$322,888,⁵⁶ which was the price of

⁵³ Yak Chau Wei's 1st affidavit dated 3 November 2017, pp 41, 42 and 76.

⁵⁴ Husband's 3rd compliance affidavit dated 10 October 2016, pp 125 – 138.

⁵⁵ Joint Summary of Relevant Information dated 6 April 2018, p 12, item F.

the motor vehicle. I accept as a matter of principle that it is the net value of the motor vehicle that should be added to the pool of matrimonial assets. This is the current value of the motor vehicle less any outstanding loan. It is not clear how the documents provided by the Husband on the purchase of the motor vehicle are relevant for establishing the net value. They were on the proposed purchase of a bigger model in 2014, and the registration of a vehicle in 2006.⁵⁷ Yet the current vehicle referred to in the Joint Summary of Relevant Information was acquired after the trade in of an earlier vehicle sometime on or before August 2016. However, it appears that the Wife has accepted that the price of the motor car to be the \$322,888 provided by the husband. Given that the Husband is claiming a value of \$197,888 and the Wife is claiming a value of \$322,888, in the absence of other evidence, I am constrained to accept the lower amount of \$197,888 as the net value, and accordingly add it to the pool of matrimonial assets.

London Property

46 The Husband disputed that the London Property formed part of the pool of matrimonial assets. He submitted that he is holding the London Property on trust for his cousins. This is because it was meant to be a gift to the cousins when it was purchased in 1997 as his cousins were facing financial difficulties.⁵⁸

The Husband also submitted that the reason why the legal title of the property still vests in his name is because his cousins wanted to avoid paying unnecessary stamp duty for the transfer.⁵⁹ In support of his position, the Husband exhibited

⁵⁶ Joint Summary of Relevant Information dated 6 April 2018, p 12, item F.

⁵⁷ Husband's 1st AOM dated 6 November 2017, pp 199, 216 and 217.

⁵⁸ Husband's written submissions dated 9 April 2018, p 13, para 26.

⁵⁹ Husband's written submissions dated 9 April 2018, p 14, para 27.

an affidavit from the cousins explaining that the beneficial interest of the London Property belonged to them.⁶⁰ The Husband further submitted that as the Wife never contributed financially to the London Property, it should not be considered a matrimonial asset.⁶¹

47 The Wife submitted that the trust arrangement should not be recognised as the Husband failed to produce any declaration of trust pursuant to s 53(1)(a) and (1)(b) of the English Law of Property Act 1925.⁶² She further submitted that the Husband did not have an actual intention to benefit the cousins as he had been using the London Property to house his employees who travelled to London for the past 15 years.⁶³

48 Although the cousins had filed an affidavit explaining that the beneficial interest in the London Property belonged to them, the evidence is hardly persuasive. The payments by them for utilities expenses and council tax are not inconsistent with them not having beneficial ownership of the property, as tenants also do make such payments. The other expenses were for minor renovations, the general upkeep of the property, purchase of furniture and appliances which added up to a relatively insignificant sum. If indeed the only obstacle holding the Husband back from transferring the property was to avoid incurring stamp fees, one would have expected the Husband to have done his calculations on the costs of such transfer. However, the Husband was unable to even submit on how much the stamp duty is payable for the transfer of the property now, or how much estate duty would have to be paid if his intention is

⁶⁰ Husband's 1st AOM dated 6 November 2017, p 98.

⁶¹ Husband's written submissions dated 9 April 2018, p 14, para 28.

⁶² Wife's written submissions dated 9 April 2018, p 30, paras 66 - 68.

⁶³ Wife's written submissions dated 9 April 2018, p 32, para 71.

to bequeath the property to the cousins upon his death,⁶⁴ much less produce a deed of trust in favour of the cousins. I am not convinced that there is any trust intended to vest the beneficial interest of the London Property in the Husband's cousins. I therefore include the London Property in the pool of matrimonial assets, and will use as its valuation \$682,614.21, the equivalent of the estate agent's valuation of £385,000 on 11 January 2016,⁶⁵ instead of the purchase price of £111,500 in 1997 submitted by the Husband.⁶⁶

Sale Proceeds of Race Course Road Property

49 The Husband had previously owned the Race Course Road Property which he bought in December 2006 for \$1,350,000 and sold in February 2007 for \$1,600,000. The Wife submitted that the net proceeds of sale should be included in the pool of matrimonial assets as the Husband was not able to provide any documentary evidence on where the money went. They should be treated in a like manner as what the Husband had submitted on how the proceeds of sale of her shares should be treated.⁶⁷ The Husband submitted that since the net proceeds from the sale had been transferred to his bank accounts, to include the sale proceeds into the pool of matrimonial assets would amount to double-counting.⁶⁸ As the Race Course Property had been sold in 2007, some four years before the divorce proceedings were filed, I accepted that the proceeds would have found their way into the Husband's bank accounts and utilised since then.

⁶⁴ Wife's Written Submissions dated 9 April 2018, at paras 71(a), and Notes of Argument dated 18 April 2018, p 2.

⁶⁵ Husband's Affidavit dated 23 August 2016, p 726.

⁶⁶ Notes of Argument dated 18 April 2018, p 2.

⁶⁷ Wife's Written Submissions dated 9 April 2018, at paras 74 and 75.

⁶⁸ Husband's written submissions dated 9 April 2018, p 15, para 30.

In contrast, the proceeds of sale of the Wife's shares that were sold when the divorce was imminent or soon after it was filed had to be included (*TNL v TNK* at [24]). I will therefore not include the sale proceeds of the Race Course Property into the pool of matrimonial assets.

50 In summary, for the assets that the Parties either disputed were matrimonial assets and/or disputed their values, I set out in the table below the values which the Wife and Husband submitted, and the values which the court has found:

Asset	Wife's Value (\$)	Husband's Value (\$)	Court's Value (\$)
Assets held in Parties' joint names			
Jalan J Property	3,430,000.00	3,500,000.00	3,350,000.00
POSB Bank Account ending with 8107	260.75	51.21	51.21
Sub-total (A)			3,350,051.21
Assets held in Wife and the Son's joint names			
Jalan B Property	4,170,000.00	2,085,000.00	2,100,000.00
Sub-total (B)			2,100,000.00
Assets held in the Wife's sole name			
AIA Dollars for Life (CPF MSS) Policy No ending with 7018	33,417.64	30,402.92	30,402.92
Jewellery given by Husband	0.00	50,800.00	30,620.00
Retirement Gratuities	0.00	634,148.08	338,153.08

Asset	Wife's Value (\$)	Husband's Value (\$)	Court's Value (\$)
Sale proceeds of shares	0.00	110,485.03	110,485.03
Gold bars and souvenir coins	0.00	560,000.00	0.00
Sub-total (C)			509,661.03
Assets held in Husband and the Son's joint names			
Johore Property	636,527.04	318,263.52	636,527.04
Sub-total (D)			636,527.04
Assets held in the Husband's sole name			
Company C	13,612,922.00	11,506,014.00	11,506,014.00
Company D	0.00	0.00	0.00
Company E	412,626.00	0.00	0.00
Motor Vehicle – Mercedes Benz	197,888.00	322,888.00	197,888.00
London Property	682,614.21	0.00	682,614.21
Sale proceeds of Race Course Road Property	250,000.00	0.00	0.00
Sub-total (E)			12,386,516.21
Total [(A) to (E)]			18,982,755.49

51 The total value of the pool of matrimonial assets is set out below:

Class of Assets	Value (\$)	Reference
Agreed Assets	2,256,667.53	[14] above.
Disputed Assets	18,982,755.49	[50] above.
Total	21,239,423.02	-

Division of the matrimonial assets

Methodology in ANJ v ANK

52 Parties are agreed that the methodology in *ANJ v ANK* [2015] 4 SLR 1043 (“*ANJ v ANK*”) should apply in the present case.⁶⁹ There, the Court of Appeal laid out a structured approach for the division of matrimonial assets. That structured approach was succinctly summarised in *TIT v TIU* [2016] 3 SLR 1137 (“*TIT v TIU*”) at [21] as follows:

- (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 (“Step 1”);
- (b) express as a second ratio the parties’ indirect contributions relative to each other, having regard to both financial and nonfinancial contributions (“Step 2”); and
- (c) derive the parties’ overall contributions relative to each other by taking an average of the two ratios above (the derived ratio shall be referred to as “the 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 could also be made in respect of

⁶⁹ Notes of Argument of 18 April 2018, p 1.

other relevant factors under s 112 or s 114(1) of the Women's Charter (Cap 353, 2009 Rev Ed) ("the Charter") ("Step 3").

53 I will apply this structured approach in the present case.

Global assessment methodology vs Classification methodology

54 In *TNC v TND* [2016] SGHCF 9 ("*TNC v TND*"), the Court held that the classification approach would be appropriate where there were multiple classes of assets to which the parties had made different contributions and some assets were not wholly the gains of the co-operative partnership of efforts that the marriage represented. The Court held further at [39] and [40] that:

39 The first methodology, "the global assessment methodology", is far more commonly used than the "classification methodology". Pursuant to the classification methodology, only the direct contributions may vary. The classification approach "would be appropriate where there are multiple classes of assets, and where the parties have made different contributions" to each class: *NK v NL* (2007) at [35]. The weightage accorded to indirect contributions must remain constant in relation to each class of assets, since indirect contributions can only be assessed and applied at the end of the marriage: *AYQ v AYR and another matter* [2013] 1 SLR 476 at [22] to [23]. The court must avoid the "blinkered" approach where "varying weights are accorded for indirect contributions in different matrimonial asset classes" (at [23]).

40 Since the presence of different direct contributions to different assets has never stood in the way of a court dividing the matrimonial assets globally, there must be something more to indicate that the classification methodology may be the more suitable approach. In my view, assets can be separately divided if some are not wholly the gains of the co-operative partnership of efforts that the marriage represents. Professor Leong Wai Kum stated in *Elements of Family Law in Singapore* (LexisNexis, 2nd Ed, 2013) ("*Elements*") at p 577 that "[t]he power to divide matrimonial assets is driven by the motive to share the gains of the marital partnership as fairly as possible between the former marital partners" [emphasis added]. In Professor Leong's view, there is a meaningful distinction to be made between "quintessential matrimonial assets", which are assets that wholly represent the gains of the marital partnership, and those which are not. She describes assets

acquired during the marriage by the efforts of one or both parties as “quintessential” matrimonial assets (Elements at p 557).

55 The Husband submitted that pursuant to the approach laid out in *TNC v TND*, the classification methodology would be appropriate for the Husband’s shareholdings in the six companies and his foreign properties.⁷⁰ The Wife, in response to the Husband’s submissions, submitted that the global assessment method should be used.⁷¹ Amongst the reasons she provided in support was that the London and Johore Properties which the Husband claimed to be holding on trusts for others were not, in fact, trust properties. Given that there had been no substantive submissions on how the classification methodology is to be applied, particularly on how the other assets are to be classified and what the Parties’ direct contributions were in some of the assets like jewellery and cars, I found that there was little to no utility in applying the classification methodology. I have found that the London and Johore Properties were not trust properties, but belonged to the Husband. For his shareholding in the companies, the Wife has not claimed to make any direct contributions, so that dealing with them as a separate class would not have made any difference, as indirect contributions are applied across the board to all classes of assets in any event (see *AYQ v AYR* [2013] 1 SLR 476, at [22] – [24]). Requesting for further submissions on the point would only draw out an already long fought legal battle. In the circumstances, I will adopt the global assessment methodology. I note that the Court of Appeal has observed in *NK v NL* (2007) at [35] that in the vast majority of cases, “either approach would likely achieve the same result”.

⁷⁰ Husband’s written submissions dated 9 April 2018, p 8, paras 17 – 19.

⁷¹ Wife’s Brief Supplemental Submissions dated 19 April 2018, p 1, para 1.

Step 1*Parties' direct contributions*

56 Given that there is not always evidence of the Parties' direct contributions in the acquisitions of the various matrimonial assets, I am constrained to use the value of a party's share in an asset as a proxy of his or her direct contribution in the acquisition of those assets. For consistency, where there is evidence of the Parties' direct contributions, I have used the ratio of the direct contributions to apportion the value of that asset between the Parties. I then attribute the apportioned values as the Parties' respective direct contributions.

57 For the amount of \$304.27 in the POSB Account No ending with 7029, even though it is held jointly by the Wife and the Son, Parties have agreed that the amount in the account is a matrimonial asset. Since there is no claim on it by the Son, I will attribute it to the Wife solely.

58 For the Jalan J Property, the Wife submitted that her CPF statement as at 6 October 2017 shows that she had utilised \$172,400.00 towards its payment.⁷² While the Husband accepted that the Wife did make this payment, he claimed that he had repaid her in cash for the entire sum. Hence, he took the view that the Wife did not make any direct contributions towards the purchase of the Jalan J Property.⁷³ I was unable to accept this claim by the Husband, as his paying the Wife in cash for the amount was not evidenced in any document. Even if the repayments were in cash, there would be records of the bank

⁷² Wife's written submissions dated 9 April 2018, p 41, para 92.

⁷³ Husband's written submissions dated 9 April 2018, p 19, para 42.

accounts from which the money was withdrawn. None was provided in support of the Husband's claim.

59 The apportionment of each party's direct contributions towards the Jalan J Property is therefore as follows:

	Wife (\$)	Husband (\$)
Cash	-	77,300.00 ⁷⁴ (being 64,000.00 + 13,300.00)
CPF	172,400.00	432,300.26 ⁷⁵
Renovations and furnishings	-	118,644.64 ⁷⁶
Total	172,400.00	628,244.90
Percentage (%)	21.53	78.47
Apportionment of the value of the Jalan J Property (\$3,350,000) between the Parties	\$721,255.00	\$2,628,745.00

⁷⁴ Wife's written submissions dated 9 April 2018, p 40, para 91.

⁷⁵ Husband's 1st AOM dated 6 November 2017, p 23, para 42 and Tab 7, p 176.

⁷⁶ Husband's 1st AOM dated 6 November 2017, p 24, para 46 and Tab 35, pp 1150 to 1174.

60 In coming to this finding, I am aware that Parties had taken out a Government Loan of \$205,000 and a Credit POSB Loan of \$45,000 to pay for the purchase of the Jalan J property. In the usual course of events, they would have paid for these loans using both their CPF savings and cash savings. However, in the absence of any evidence on what they had paid in cash, this is the best result I can arrive at.

61 For the POSB account ending with 8107, since it is a joint account of both Parties, I will ascribe the balance of \$51.21 to each equally.

62 For the Jalan B Property, the Wife did not contend that she made any direct contributions towards the acquisition of the property. The Husband submitted that, in 2001, he paid \$1,600,000 in cash for the Jalan B Property and an additional \$137,642.87 in renovations. The amount to be ascribed to the Husband's direct contribution is therefore \$2,100,000 (being half the value of \$4,200,000).

63 For the Johore and London properties, the Wife also did not contend that she made any direct contributions towards their acquisition, I therefore ascribe their respective values of \$636,527.04 and \$682,614.21 as the Husband's direct contributions towards these properties.

64 Save for what has been set out above, the Wife has not made any claims that she had directly contributed to the matrimonial assets in the possession of the Husband. I therefore proceed on the basis that the rest of the assets in the possession of the Husband were paid for by him solely.

65 For the rest of the assets in the possession of the Wife, the Husband accepted that the Wife had contributed to her own assets save for the jewellery

he gifted her.⁷⁷ For these, I find that it was the Husband who had contributed to their acquisition.

66 I set out my findings of the Parties' direct contributions in the table below:

Asset	Wife's Direct Contributions (\$)	Husband's Direct Contributions (\$)
POSB Account No ending with 7029	304.27	0.00
Honda car	25,011.00	0.00
AIA Life Endowment Special Policy No ending with 0209	28,807.92	0.00
POSB Savings Account No ending with 3798	7,954.06	0.00
UOB Savings Account No ending with 0772	190.71	0.00
Jewellery (Self-purchased)	30,620.00	0.00
CPF Medisave Account	14,753.46	0.00
CPF Ordinary Account	0.00	452.77
CPF Special Account	0.00	360.57
CPF Medisave Account	0.00	47,923.97
CPF Retirement Account	0.00	0.03
Citibank Account No ending with 3004	0.00	76,150.34

⁷⁷ Husband's written submission dated 9 April 2018, para 46.

Asset	Wife's Direct Contributions (\$)	Husband's Direct Contributions (\$)
Citibank Account No ending with 3012	0.00	2,206.52
Citibank Account No ending with 3039	0.00	USD 55,305.94 ≈ 74,624.30
Citibank Account No ending with 0141	0.00	AUD 199,810.50 ≈ 200,639.51
National Australia Bank Account No ending with 9284	0.00	AUD 125,497.07 ≈ 125,297.07
Citibank Account No ending with 5445	0.00	INR 995,024.07 ≈ 25,812.52
Citibank Account No ending with 0447	0.00	INR 51,132.57 ≈ 1,104.46
Maybank Account No ending with 8852	0.00	RM 36,857.36 ≈ 12,114.58
DBS Autosave Account No ending with 625-9	0.00	55,633.06
POSB Passbook Savings Account No ending with 1119	0.00	4,009.05
POSB Passbook Savings Account No ending with 7358	0.00	76,988.75
Citibank Singapore Maxisave Account No ending with 7108	0.00	101,157.01

Asset	Wife's Direct Contributions (\$)	Husband's Direct Contributions (\$)
TCC – S1 Subscription Account	0.00	59,540.00
TCC – S2 Account	0.00	1,582.52
Company A	0.00	107,160.00
Company B	0.00	49,329.00
Craft Print shares	0.00	70.00
Datapulse Tech shares	0.00	1,040.00
Digiland Intl shares	0.00	1.80
IP Softcom	0.00	4,200.00
K1 Ventures	0.00	2,475.00
Singtel	0.00	801.80
AllianceBernstein – American Income Portfolio AT-AUD (H)	0.00	544,893.51
FTIF – Templeton Global Bond A MDIS – SGD (H1)	0.00	270,262.77
FTIF – Franklin High Yield A MDIS – SGD (H)	0.00	246,695.70
Diamond ring	0.00	10,000.00
Gold bracelet	0.00	2,000.00

Asset	Wife's Direct Contributions (\$)	Husband's Direct Contributions (\$)
6 gold coins	0.00	2,000.00
Baume & Mercier watch	0.00	4,000.00
Rolex watch	0.00	13,500.00
Rolex watch	0.00	13,000.00
Rolex watch	0.00	12,000.00
Jalan J Property	721,255.00	2,628,745.00
POSB Bank Account ending with 8107	25.60	25.60
Jalan B Property	0.00	2,100,000.00
AIA Dollars for Life (CPF MSS) Policy No ending with 7018	30,402.92	0.00
Jewellery given by Husband	0.00	30,620.00
Retirement Gratuities	338,153.08	0.00
Sale proceeds of shares	110,485.03	0.00
Gold bars and souvenir coins	0.00	0.00
Johore Property	0.00	636,527.04
Company C	0.00	11,506,014
Company D	0.00	0.00
Company E	0.00	0.00
Motor Vehicle – Mercedes	0.00	197,888.00

Asset	Wife's Direct Contributions (\$)	Husband's Direct Contributions (\$)
Benz		
London Property	0.00	682,614.21
Sale proceeds of Race Course Road Property	0.00	0.00
Total	1,307,963.05	19,931,460.46
Percentage (%)	6.16	93.84

67 The ratio of direct contributions between the Wife and the Husband is therefore 6.16:93.84.

Step 2

Parties' indirect contributions

68 The Wife submitted that the ratio of indirect contributions ought to be 80:20 between her and the Husband. Broadly, she stated that she was the primary caregiver of the Son and contributed to the household and Son's expenses from 2003. She argued that even though Parties had domestic helpers (from 2003), she had to manage both the Jalan B and the Jalan J properties and either personally saw to chores or supervised the domestic helpers. The Wife also argued that she had to top up \$1,500 to the monthly \$2,000 which the Husband paid to her as maintenance for the household expenses. She further submitted that she was involved in the activities of the Husband's side of the family and organised family gatherings.⁷⁸ She added that during certain periods of her marriage, she had hosted the Husband's relatives and business associates

⁷⁸ Joint Summary of Relevant Information dated 6 April 2018, p 21.

at home for meals; for a number of years bought and prepared gifts for his staff of about 120 during Christmas; assisted in accompanying his mother to the doctors when she was very ill and visited her daily whenever she could; and provided emotional support to him during a dispute in his family.⁷⁹ The Wife pointed out that the Husband has been very active in community service over the years besides his involvement in his own companies. He has therefore been dependent on her to manage the domestic affairs of the home.⁸⁰

69 The Wife has also argued that her indirect financial contributions included purchasing of furnishings in the Jalan J Property (although this was not supported by documentary evidence),⁸¹ contribution of a sum of money to the household expenses, household expenses at the Jalan B Property from March 2012, helper's salary and levy for the Jalan B Property from March 2012 onwards, and the Son's school fees from Kindergarten to Secondary 4.⁸² Her access to a Government loan in the purchase of the Jalan J Property had allowed parties to enjoy a lower interest rate in financing its purchase.⁸³

70 In contrast, the Husband submitted that the ratio of indirect contributions ought to be 70:30 between him and the Wife. He argued that the Son was taken care of by the Wife's mother, grandmother, siblings and domestic helpers when young, and he had an active role bringing up the Son. The Husband also argued that he was the financial provider for the family, paid for all expenses including repair works on the house, paid for the Son's overseas education and provided

⁷⁹ Wife's written submissions dated 9 April 2018, para 118.

⁸⁰ Wife's written submissions dated 9 April 2018, para 120.

⁸¹ Wife's 2nd AOM para 37.

⁸² Wife's written submissions dated 9 April 2018, p 47.

⁸³ Wife's written submissions dated 9 April 2018, para 122.

for the Wife's immediate family. The Husband further argued that he provided the Wife with a monthly allowance and reimbursed her for household expenses.⁸⁴

71 I found the ratios submitted by the Parties to be over generous. This was not a marriage where only the Husband contributed to the household but it was one where both Parties worked during the entirety of their marriage (up to the point when the Wife retired in June 2004). Whilst I acknowledge that the Wife did not dispute that the Husband paid for the bulk of the family's expenses including the Son's education overseas,⁸⁵ Parties (as the Husband admitted) had led separate lives for at least 22 out of 41 years of the marriage when they slept in separate rooms or even lived in different houses. It is thus believable that the Wife had to maintain the household expenses by herself.⁸⁶ In addition, when the Wife was a full-time working mother, she had contributed to the upbringing of the Son and the running of the household whilst the Husband was preoccupied with work over the weekends.⁸⁷ Even though she had the assistance of a helper (from the time the Son was three months to 8 years old⁸⁸), the Husband did not allege that the Wife delegated all of the household responsibilities to the helper.

72 I note also that little has been said about the Husband's role as a father during the growing years of the Son beyond him saying that he spent a

⁸⁴ Joint Summary of Relevant Information dated 6 April 2018, p 21 and Husband's written submissions dated 9 April 2018, p 24.

⁸⁵ Husband's 1st AOM para 51.

⁸⁶ Husband's 1st AOM para 73.

⁸⁷ Wife's 1st AOM para 15(a).

⁸⁸ Husband's 2nd AOM para 86.

substantial amount of time tutoring the Son in English, fetching him to school daily when he was 8 to 10 years old and attending his school functions.⁸⁹

73 The Parties did not submit on any authorities to support their proposals on the indirect contributions. I refer to the following three cases where the lengths of the marriages were also substantial as guides:

- (a) In *TEG v TEH and another matter* [2015] SGHCF 8, both the husband and wife had worked full-time throughout the marriage and had three children, one of whom had severe cerebral palsy, who were all adults at the time of hearing. The marriage lasted for about 22 years. The ratio was 65:35 between the wife and the husband on indirect contributions.
- (b) In *Lee Siew Choo v Ling Chin Thor* [2014] SGHC 185, both husband and wife had worked throughout the marriage, although the wife worked part-time. Parties have two children who were 25 and 23 years old. The marriage lasted for about 29 years. The ratio was 50:50 for indirect contributions.
- (c) In *TPY v TPZ and another appeal* [2017] SGHCF 2, the husband and wife had worked full-time throughout the marriage and relied on a domestic helper substantially for homemaking and caregiving in order to focus on their respective careers. The wife was the main supervisor of the domestic helper as the husband frequently travelled for work throughout the marriage and was not at home in those periods thus weighing slightly in the wife's favour. The marriage lasted for about 13 years. The Court found

⁸⁹ Husband's written submissions dated 9 April 2018, p 24.

the ratio of indirect contributions of 60:40 between the wife and the husband.

74 Having regard to these cases, and the circumstances of the present case, in particular the length of the marriage and the nature of each party's indirect contributions, I am of the view that a ratio of 60:40 between the Wife and the Husband would be just and equitable.

Step 3

Average ratio

75 After deciding on the ratios of direct and indirect contributions, I arrive at the overall average (rounded off) ratio of 33:67 between the Wife and the Husband based on the computations in the table immediately below:

	Wife (%)	Husband (%)
Direct Contributions	6.16	93.84
Indirection Contributions	60.00	40.00
Average	33.08 $\approx$ 33	66.92 $\approx$ 67

76 The Wife submitted that a higher weight should be given to the indirect contributions of Parties, as the marriage has lasted 37 years before the writ was filed. However, the calculations presented appeared to be based on equal weights being given to indirect and direct contributions.⁹⁰

⁹⁰ Wife's Brief Supplemental Submissions dated 19 April 2018, p 1, paras 2 and 3.

77 In *ANJ v ANK* (at [27]), the Court of Appeal held that the average ratio under Step 3 may be calibrated by giving different weights to direct and indirect contributions depending on the circumstances of the case. The relevant factors to be considered include the length of the marriage, the size of the matrimonial assets and its constituents, and the extent and nature of the indirect contributions. I am not minded to adjust the Parties' respective average percentage contributions by giving different weightages to the direct and indirect contributions as the facts presented no compelling reason to do so. The importance of each of the factors to be considered has already been duly recognised in the percentages of the direct and indirect contributions. In my view, the ratio of 33:67 between the Wife and the Husband was a just and equitable division of the matrimonial assets.

Adverse Inference

78 The Wife argued that an adverse inference should be drawn against the Husband as he had failed to provide all information required for the Court Expert to value the six companies,⁹¹ and that the information provided to the Court Expert came mainly from persons who were either employed by the Husband or affiliated to the Husband's Companies.⁹²

79 In addition, the Wife cited the Court Expert's Report which stated that numerous items such as audited financial statements, supporting accounting schedules and memorandum and articles of association that were asked for by the Court Expert were not furnished by the Husband.⁹³ The Court Expert had

⁹¹ Wife's written submissions dated 9 April 2018, p 14, para 29.

⁹² Wife's written submissions dated 9 April 2018, p 15, para 30.

⁹³ Wife's written submissions dated 9 April 2018, p 16, para 31.

stated that it was unable to obtain audited financial statements from Company A as the director declined to provide the information.⁹⁴

80 The Husband also argued that an adverse inference should be drawn against the Wife with regard to her retirement gratuities of \$634,148.08 and sale proceeds of the shares that she sold shortly after the divorce proceedings were commenced. The Husband alleged that the Wife had habitually kept records of the Parties' lives from as early as 1970s, but yet claimed that she could not recall or did not have any records of how she spent the retirement gratuities.⁹⁵ Furthermore, the Husband argued that the Wife failed to properly account for the proceeds received from the sale of the her shares which amounted to \$110,485.03.⁹⁶

81 The Husband therefore sought the full sum of the retirement gratuities and sale proceeds of the shares sold to be added back to the pool of matrimonial assets and for an adverse inference to be drawn. He also pointed out that the \$201,410.51 the Wife received when her five insurance policies matured between 2012 and 2014 had not been accounted for and should be returned to the pool of matrimonial assets.⁹⁷

82 The Wife did not submit on any cases for adverse inference to be drawn, while the cases submitted by the Husband did not exactly shed much light on the conditions that must be present for the Court to draw an adverse inference.

⁹⁴ Wife's written submissions dated 9 April 2018, p 16, para 33.

⁹⁵ Husband's written submissions dated 9 April 2018, p 28, paras 67 and 68.

⁹⁶ Husband's written submissions dated 9 April 2018, p 31, paras 75 and 77.

⁹⁷ Notes of Argument dated 18 April 2018, p 9 and Exhibit D2.

83 Instead, I found the following excerpt in *TIT v TIU*, where the High Court held that the duty of full and frank disclosure must extend with equal force to material facts, to be useful in determining which non-disclosures would warrant the drawing of an adverse inference:

31 As noted by the Court of Appeal in *BG v BF* [2007] 3 SLR(R) 233 (“*BG v BF*”), at [52], the general duty owed by parties to the court to “make full and frank disclosure of all relevant information within his or her knowledge [,] is particularly relevant in the context of the division of matrimonial assets.” The absence of full and frank disclosure would entitle the court to draw a suitable adverse inference.

32 In the context of matrimonial proceedings, the lack of full and frank disclosure is normally argued in the context of one party not disclosing his or her assets (see, for example, *Koh Kim Lan Angela v Choong Kian Haw* [1993] 3 SLR(R) 491 at [31]). Nevertheless, in keeping with the observations of the Court of Appeal in *BG v BF* that the duty of full and frank disclosure is one that is derived from general law, the duty of full and frank disclosure must extend with equal force to material facts.

33 In *Tay Long Kee Impex Pte Ltd v Tan Beng Huwah (trading as Sin Kwang Wah)* [2000] 1 SLR(R) 786, the Court of Appeal gave guidance on what “material facts” are (at [21]):

... The difficulty here is in determining what facts are material. Any definition of “materiality” has to be, by its very nature, general. In the words of Ralph Gibson LJ in *Brink’s-Mat Ltd v Elcombe* [1988] 3 All ER 188 “*material facts are those which it is material for the judge to know in dealing with the application.*” It need not be “decisive or conclusive” — *per* Warren L H Khoo J in *Poon Kng Siang v Tan Ah Keng* [1991] 2 SLR(R) 621. We would add that the duty to disclose applies not only to material facts known to the applicant but also such additional facts which he would have known if he had made proper inquiries. The extent of the inquiries which an applicant should make would have to depend on the facts and circumstances prevailing in the case.” [emphasis added]

84 I accept the Wife’s submissions and the Court Expert’s evidence on the failure to provide the various documents of the companies that were required for their valuation. Accordingly, I find that the Husband did not make full and

frank disclosure of material facts pertaining to the six companies which would have affected their valuations. In dealing with the Husband's lack of full and frank disclosure, I found helpful the following comments of the High Court in *TYS v TYT* [2017] 5 SLR 244:

45 As explained earlier, I decided to use the uplift approach to address the adverse inference because it was not practicable to come to a finite sum for the Husband's non-disclosure. The cases adopting an uplift approach cover a broad range of facts. In *Au Kin Chung v Ho Kit Joo* [2007] SGHC 150, the High Court upheld the decision of the district judge who increased the wife's share from 50% to 70% on account of husband's failure to give full and frank disclosure of his assets (at [45]). In *Chan Pui Yin v Lim Tiong Kei* [2011] 4 SLR 875, the wife was awarded a further 10% of the value of the disclosed assets of \$10.95m (at [52]). Therefore, the wife was awarded 30% of all the remaining assets save for the matrimonial property, which was separately divided. While the general uplift approach may be criticised as being arbitrary since there is no objective value to which it may take reference (*AZZ v BAA* at [120]), I considered that some degree of arbitrariness was inevitable as adverse inferences were drawn precisely to deal with situations of imperfect and incomplete information, and discarding the uplift approach entirely may create a perverse incentive for parties to tactically craft non-attributable non-disclosure. In the final analysis, much would depend on the facts, and in determining the appropriate uplift, the court will be guided by, inter alia, the evidence before it as to the extent of non-disclosure relative to the value of the disclosed assets.

46 On the facts of this case, this was not an extraordinarily long marriage nor was the asset pool extraordinarily large. If equal weightage was given to both direct and indirect limbs, the final division ratio would be 55:45 in favour of the Husband. In my judgment, two factors called for a more unusual order in this case: (a) the adverse inference drawn against the Husband's financial position, and (b) the needs of the family.

85 I accept also the Husband's arguments that the Wife did not sufficiently explain or account for how she spent her retirement gratuities and the sale proceeds of the shares. However, since I have returned the unaccounted sums to the pool of matrimonial assets for division (see [26] and [28] above), no further adverse inference needs to be drawn against the Wife for these two

groups of assets beyond the findings that I have made above. While I also do not think her response that the money she received from the insurance policies had gone into household expenses was adequate in explaining where this amount went,⁹⁸ I will only draw an adverse inference against the Wife for this group of assets instead of returning them to the pool of matrimonial assets. This is because they were not listed in the Joint Summary of Relevant Information, and no substantive evidence was adduced or submissions made on them.

86 In light of the above, I will adjust the ratio at Step 3 between the Wife and the Husband from 33:67 to 38:62 by increasing the percentage of the Wife's share by 5%. Applying the percentages to the total value of the assets of the Parties of \$21,239,423.02 (see [51] above), the Wife will receive \$8,070,980.75 and the Husband will receive \$13,168,442.27.

Apportionment of the matrimonial assets

Approach – each to keep assets under their respective names – indicated preferences to be followed where possible

87 The Wife did not indicate her position on whether Parties should keep the assets which are presently in their names, save to state that she has no objection to the Jalan J Property being sold and divided.⁹⁹ The Husband, however, submitted that:

- (a) Parties keep assets that are in their own names;
- (b) the Wife's share of Jalan J Property to be transferred to him for no consideration; and

⁹⁸ Exhibit P4 – Brief submissions on issues concerning retirement gratuity and monies received from insurance policies.

⁹⁹ Notes of Argument dated 18 April 2018, p 4.

- (c) the Wife to be entitled to keep her share in Jalan B Property absolutely.

88 This is a sensible solution considering that it minimises transaction costs that would otherwise reduce the current value of the pool of matrimonial assets as a result of the apportionment. It also has the advantage of leaving the Wife with a property in her name and a roof over her head. Accordingly, I order that the Wife is to retain her interest in the Jalan B Property where she is a joint tenant (which is valued at \$2,100,000, being half of the valuation of \$4,200,000), and that she transfers her interest in the Jalan J Property to the Husband. I further order that the Wife keeps the following properties in her name which have a total value of \$617,328.05:

Description	Amount (\$)
POSB Account No ending with 7029	304.27
Honda car	25,011.00
AIA Life Endowment Special Policy No ending with 0209	28,807.92
POSB Savings Account No ending with 3798	7,954.06
UOB Savings Account No ending with 0772	190.71
Jewellery (Self-purchased)	30,620.00

CPF Medisave Account	14,753.46
POSB Savings Account No ending with 8107	25.60
AIA Dollars for Life (CPF MSS) Policy No ending with 7018	30,402.92
Jewellery given by Husband	30,620.00
Retirement Gratuities	338,153.08
Sale proceeds of shares	110,485.03
Total	617,328.05

89 I also order that the Husband keeps the properties that are in his name. However, since the value of the Wife's share of the matrimonial assets is \$8,070,980.75 (see [86] above), the Husband will have to pay to the Wife from the total pool of the matrimonial assets another sum of \$5,353,652.70 (being \$8,070,980.75 - \$2,100,000 - \$617,328.05 (see [88] above)).

90 To complete the division of matrimonial assets, where assets have been ascribed zero value or are not included in the list of matrimonial assets (see [15] above), the party having possession will be allowed to retain them.

91 I will also give liberty to apply within 3 months of the date of this judgment in the event that Parties require further directions on which assets of the Husband are to be used to pay the Wife.

Maintenance

92 The Wife, who is in her early 70s, stated in the Joint Summary of Relevant Information that she would like to have a lump sum maintenance of \$240,000, based on a multiplicand of \$2,000 (which was what she is receiving as interim maintenance) and a multiplier of 10 years. She did not provide any authorities in support in her written submissions. Alternatively, the Wife suggested a monthly maintenance of \$3,000.¹⁰⁰

93 The Husband, who is in his late 70s, submitted that there should be no maintenance for the Wife as she has a substantial share of the pool of matrimonial assets after taking into consideration her retirement gratuities.¹⁰¹ The Husband also submitted that maintenance for a former spouse is meant to be supplemental in nature.¹⁰² He added that the Wife has free medical benefits as a former civil servant, while he has to pay for the medical expenses of his various health issues, such as diabetes, heart problems, arthritis and other problems associated with old age as he has no medical coverage.¹⁰³

94 The Court of Appeal in *TNL v TNK* provided the following guidance on the ordering of maintenance for a wife:

61 The Husband's position on appeal is that no maintenance should be awarded to the Wife. On the other hand, the Wife, while accepting the monthly sum of \$3,000 as "reasonable", contends that the multiplier should be 19 years instead, giving a total sum of \$684,000. The Wife's basis for a 19-year multiplier is this court's decision in *Wan Lai Cheng v Quek Seow Kee* [2012] 4 SLR 405, where we followed (at [89])

¹⁰⁰ Joint Summary of Relevant Information dated 6 April 2018, p 3.

¹⁰¹ Husband's written submissions dated 9 April 2018, p 37, para 89.

¹⁰² Husband's written submissions dated 9 April 2018, p 38, para 91.

¹⁰³ Husband's written submissions dated 9 April 2018, p 40, para 95.

the method of quantifying an appropriate multiplier for a lump sum maintenance award set out in our earlier decision in *Ong Chen Leng v Tan Sau Poo* [1993] 2 SLR(R) 545 (at [35]). This method involves taking a compromise between the average life expectancy of a woman and the usual retirement age of a Singapore male worker less the wife's present age, *ie*, [(average life expectancy of a woman + usual retirement age of a Singapore male worker) ÷ 2] – the wife's present age ("the *Ong Chen Leng* method").

62 Whilst not proposing to discard the *Ong Chen Leng* method altogether, we do not think that the *Ong Chen Leng* method was intended by this court to be the only method of quantifying the appropriate multiplier for a lump sum maintenance award. In this regard, we agree with the Husband's submission that the *Ong Chen Leng* method is simply a guide rather than a rule of law. Ultimately, the award of maintenance is a multi-factorial inquiry which, pursuant to s 114(1) of the Women's Charter (Cap 353, 2009 Rev Ed) ("WC"), requires the court to have regard to all the circumstances of the case including the following matters listed in s 114(1)(a) to (g) of the WC:

.....

63 Additionally, as noted by the Judge, the court's power to order maintenance is supplementary to its power to order a division of matrimonial assets (*ATE v ATD and another appeal* [2016] SGCA 2 at [33]). Consequently, if, from the division of matrimonial assets, there is a sum which, if invested properly, would be sufficient to maintain the wife, the award of maintenance should be no more than what is necessary to allow the wife to, in the words of the Judge, "weather the transition of the divorce" (GD at [77]).

64 In the present case, we have held that the wife is entitled to an equal share of the substantial pool of matrimonial assets. We note, too, that the Husband supported the Wife up till mid-2015. Although the Judge was alive to both these factors, we find her multiplier of five years to be on the generous side. Accordingly, we order that the Husband pay the Wife a lump sum maintenance of \$100,000, which is approximately the sum obtained using a multiplier of three years, which we consider to be more appropriate. The Husband shall pay this sum on completion of the sale of the matrimonial home or within nine months, whichever is earlier.

95 Considering the factors listed in s 114(1)(a) to (g) of the WC and the guidance provided in *TNL v TNK*, I am not inclined to order any maintenance

for the Wife. The foremost consideration is that, as the Husband submitted, the Court's power to order maintenance is "supplementary" to its power to divide matrimonial assets (*ATE v ATD* [2016] SGCA 2 ("*ATE v ATD*") at [33]). The Court of Appeal in *ATE v ATD* also emphasised at [31] that "the overarching principle embodied in s 114(2) is that of financial preservation, which requires the wife to be maintained at a standard that is, to a reasonable extent, commensurate with the standard of living she had enjoyed during the marriage – but ... s 114(2) had to be applied in a "commonsense holistic manner that takes into account the new realities that flow from the breakdown of marriage".

96 In the present case, it is key to note that the Wife will receive a significant share of the large pool of matrimonial assets which includes substantial liquid assets. As I pointed out at the start of my judgment, this is a case which involves two septuagenarians. In the circumstances, the amount of matrimonial assets awarded to the Wife should see her through her twilight years, and a separate lump sum for maintenance will not be necessary. Nor would an order for periodic maintenance be appropriate having regard to the age of the Husband and his many health problems. Even though he is still earning an income, it is not certain how much longer he will be able to continue such payments.

97 I will hear Parties on costs.

Tan Puay Boon
Judicial Commissioner

Sivanathan Wijaya Ravana (R S Wijaya & Co) for the Plaintiff;
Kee Lay Lian and Ada Chua (Rajah & Tann Singapore LLP) for the
Defendant.
