

APE v APF
[2015] SGHC 17

Case Number : Divorce Transfer No 5657 of 2010
Decision Date : 20 January 2015
Tribunal/Court : High Court
Coram : Tan Siong Thye J
Counsel Name(s) : Koh Tien Hua, Michelle Ng and Marcus Sim (Harry Elias Partnership LLP) for the plaintiff; Sim Bock Eng and Hazell Ng (Wong Partnership LLP) for the defendant.
Parties : APE — APF

Family law – custody – care and control

Family law – marital assets – division

Family law – maintenance – wife

Family law – maintenance – child

[LawNet Editorial Note: The appeal to this decision in Civil Appeal No 186 of 2014 was dismissed by the Court of Appeal on 29 July 2015. See [\[2015\] SGCA 47.](#)]

20 January 2015

Tan Siong Thye J:

Introduction

1 This case concerned the ancillary matters arising from the divorce of the plaintiff/wife and the defendant/husband. The issues involved (a) the custody, care and control of the parties' only child, (b) the payment of maintenance for the wife and the child, as well as (c) the division of the matrimonial assets. I rendered my oral decision earlier on 29 October 2014. However, the wife is dissatisfied with all aspects of my decision, notwithstanding the fact that parties had agreed on some issues. I shall now give the reasons for my decision.

Background

2 The husband was a commercial pilot with a budget airline since January 2012. [\[note: 1\]](#) He was 43 years old. The wife was a bank officer and she was 42 years old. [\[note: 2\]](#) They were married in 1999 and their marriage lasted for 12 years. They had a daughter born in 2004.

3 Before the husband became a commercial pilot the husband was a pilot employed by the Republic of Singapore Air Force ("RSAF"). From 2004 to 2007, when he was with the RSAF, the husband underwent training in the United States of America ("the US"). During that period he returned to Singapore only twice.

4 In 2010, the marriage broke down and the husband was asked to leave the matrimonial home in

March 2010. [\[note: 31\]](#) The wife commenced divorce proceedings on 11 November 2010. An interim judgment was granted on 6 September 2011 on the grounds of the husband's unreasonable behaviour. The ancillary matters came before me for my deliberation.

Custody, care and control

5 There was no dispute regarding the issue of care and control. Both parties agreed that the wife should be given care and control of the child. However, the parties did not agree on (a) whether there should be joint or sole custody; and (b) whether the husband's access should be liberal or supervised.

Should sole or joint custody be granted?

The wife's submissions

6 The wife submitted that the court should grant sole custody to her as it would be in the child's best interests. This was because the welfare of the child was always of paramount consideration (*IW v IX* [2006] 1 SLR(R) 135 at [26]). She further cited *CX v CY (minor: custody and access)* [2005] 3 SLR(R) 690 where the court held that sole custody orders would be granted in exceptional circumstances (at [38]):

... We agree with Assoc Prof Debbie Ong that the exceptional circumstances where sole custody orders are made may be where one parent physically, sexually, or emotionally abuses the child (see Debbie Ong, "Making No Custody Order" ([19] *supra*) at p 586), or where the relationship of the parties is such that co-operation is impossible even after the avenues of mediation and counselling have been explored, and the lack of co-operation is harmful to the child (see Debbie Ong, "Parents and Custody Orders" ([27] *supra*) at p 222-223).

7 Pursuant to the above, the wife submitted that the court had granted sole custody orders in the following circumstances:

(a) *ARI v ARJ* [2011] SGDC 135: The parties had dissolved their marriage in Serbia and both had applied for sole custody of the child. In awarding sole custody to the wife, the court observed that the husband had repeatedly raised unsubstantiated allegations of the wife abusing the child, resulting in a medical social worker, the police and the then Ministry of Community, Youth and Sports getting involved. His actions showed that he was more preoccupied with substantiating his allegations than looking out for the child's welfare. This had created an atmosphere of repeated upheaval for the child. Despite the wife's genuine intentions to cooperate with the husband, he was unable to make decisions in the child's best interests and continued to be hostile and uncooperative to the wife. As such a situation should not be allowed to be perpetuated, the court granted sole custody of the child to the wife.

(b) *GK v GL* [2005] SGDC 8: In that case, the wife had requested that she be given sole custody of the children as the parties' relationship was very acrimonious and they were unable to communicate – the husband did not deny the wife's allegations that he was only able to "spew vulgarities at her over the telephone and refused to inform her of the times he would be taking and returning the children" (at [18]).

(c) *YB v YC* [2008] SGDC 279: The wife was granted sole custody as the husband had been extremely litigious without any sincere intention to be genuinely involved in the children's lives. It had been four years since he had seen his children on a regular basis and yet he was still willing

to wait till the proceedings were conclusively over before he would exercise his access rights. The judge held that joint custody was not an automatic right and it was only when the parent was sincere and serious about being involved in the children's lives that the parent would be granted joint custody.

8 In this case the wife submitted that the facts made it an exceptional one. Sole custody should be granted to her for the following reasons:

(a) The husband had been uninterested in the child and hardly involved in her life all along. He left the family to pursue his dream for three years in the US and only came back to visit the family twice. Even after his return to Singapore, he was not interested in carrying out his duties as a father. [\[note: 4\]](#)

(b) The husband was unlikely to be able to make good decisions for the child if joint custody was given. This was because he had been out of the child's life for a long time and had made poor decisions for her in the past. He often objected to the wife's suggestions just to oppose her. He had also shown that he was very dogmatic and insistent on doing things his way. This had detrimental effects on the child. [\[note: 5\]](#)

(c) The husband had been abusive during the marriage towards the child. He would often scold and shout at the wife and the child, throwing household furniture around and waking the child up in the middle of the night. He would also flare up when the child did not want to cooperate with him. [\[note: 6\]](#)

9 In contrast, the wife submitted that sole custody would suit the child's best interests as she had been the primary caregiver. The child was very close to her and therefore she was well-equipped to make decisions in the child's best interests. [\[note: 7\]](#)

The husband's submissions

10 The husband admitted to being estranged from the child. However, he submitted that in *ZO v ZP and another appeal* [2011] SGCA 25 at [12], the Court of Appeal reaffirmed its commitment to granting joint custodies as the norm rather than the exception. In that case, the court refused to grant a sole custody order to the wife. It held that joint parenting was in the best interest of the child and acrimony alone was no basis to grant a sole custody order. On that basis, the husband submitted that a joint custody order should be granted as it was in the best interests of the child to have both parents involved in her life. He would like to be involved in his daughter's educational progress, her health issues and her likes and dislikes. However, ever since he left the matrimonial home in 2010, he had not received any information about the child. His requests for more information and to spend time with the child were rebuffed by the wife. [\[note: 8\]](#)

11 The husband submitted that he was estranged from the child because of the wife. He believed that a joint custody order was necessary so that he would be involved in the child's life. This would give him an opportunity to re-establish his relationship with the child. He stated that between 2007 and 2010, his relationship with the child had been good and it was only after he left the matrimonial home that they increasingly grew distant due to the wife's attempts at making access to the child difficult. [\[note: 9\]](#) He submitted that without a joint custody order, the child would remain estranged from him and it was against her best interests. [\[note: 10\]](#)

My decision

12 Having heard the submissions from both parties, I decided to grant joint custody to the husband and wife for three main reasons.

13 First, the threshold for granting a sole custody order is a high one. This was admitted to by the wife in her submissions and thus she tried to argue that the present facts fell within the exception to the norm in which joint custody orders would be granted. However, I disagreed with her submission. Although the husband was not with his daughter during the three years when he underwent training in the US, he tried as much as possible to play the role of a good father when he returned. He admitted that he was estranged from the child and had, in the course of his frustrations due to the failing marriage, raised his voice. [\[note: 11\]](#) He requested for a joint custody order so as to ensure that he had the right to remain a part of the child's life. He submitted that when he returned from the US in February 2007, he was the primary care giver of the child while the wife was studying for her Masters in Financial Engineering. [\[note: 12\]](#) He also took care of the child when she contracted hand, foot and mouth disease, bouts of fever and flu and brought the child for medical treatment when she required specialist treatment for suspected sclerosis. [\[note: 13\]](#) He also volunteered as a grassroots leader with the Kembangan Neighbourhood Community for two years in order to secure a priority spot for her in a good primary school. [\[note: 14\]](#) Those facts were undisputed by the wife. I thus found it hard to believe the wife's first submission that the husband was *uninterested* in playing his role as a father as the above actions showed otherwise.

14 Second, I did not agree with the wife's submission that the husband was unable to make good decisions for the child's benefit. I observed that the *converse* appeared to be true. The child was made to take part in many activities when she was only four years old. The wife's evidence was as follows:

(i) The baby courses were expensive as well. Shishida, Tumble Tots and Julia Gabriel cost about \$600 to \$900 each month. Our daughter's childcare and courses costs \$3,000 to \$3,500 per month. When our daughter reached two and a half years old, I sent her to attend half-day care at Chiltern House daily on week days which costs about \$1,000 per month. When she was 3 years old, she attended full day care at Chiltern House which costs about \$1,300 per month.

(j) From 3 years onwards, she was in full day care that costs \$1,5000 per month. Costs for our daughter continue to rise during her kindergarten years. ***At 4 years old, she was enrolled in ballet, painting, math, gymnastic, abacus, Chinese and piano lessons. ...***

[emphasis added in bold italics]

15 The wife's explanation for the above was as follows: [\[note: 15\]](#)

... I am not obsessed with the child's education. I am a concerned parent as per any normal parent and will provide her with every opportunity within my means. I encourage her to develop mentally, emotionally, and physically and expose her to different environments where possible. I am in tuned with the child's preferences and feelings. If she is uncomfortable with the situation, we will discuss it and if need be, I deal with what is distressing her. ...

In fact, the [husband] was the one who forced the child against her will to attend classes ... He was also the one that forced the child to be with him against her will. This results in tension that exists between the two till today.

16 The husband's evidence was as follows: [\[note: 16\]](#)

29 As the [wife] was very insistent that [the child] participate in many enrichment programmes, I was the parent who had to moderate [the child's] activities. At the age of 2, [the child] was already attending classes at Shishida. At the age of 4, [the child] was already enrolled in ballet, painting, mathematic classes, gymnastic, abacus lessons, Chinese and piano lessons. When [the child] was merely in K2, the [wife] wanted to enroll [the child] for both K2 and primary one Chinese lessons.

30 I constantly feared that [the child] would be deprived of a carefree childhood and be overburdened by all these extra curricular activities that the [wife] has shoved onto [the child]. ***On many occasions, I had to talk the [wife] out from enrolling [the child] for more programmes and to allow [the child] breathing space to enjoy her childhood. The [wife] perceived all these as me trying to hinder [the child's] advancement.*** Nevertheless, I feel that it is important for me to take on the role as a moderator in [the child's] life.

[emphasis added in bold italics]

17 In my view, given the large number of enrichment lessons that the child had been enrolled in, it was perfectly understandable why the husband was concerned about the child. The number of classes that the child had been sent to seemed to border on the excessive. I also found that, given the husband's absence from the familial home from 2010, it was more probable that it was the wife who sent the child to all the enrichment classes, which reflected an unhealthy fear of losing out on the part of the wife.

18 Therefore, I disagreed with the wife's second submission that the husband made poor decisions with respect to the child's interests and was obstructive in planning for the child's future. [\[note: 17\]](#) His concerns were genuine and motivated by a sincere concern for the child's well-being. This was probably the reason behind him objecting to the child starting lessons at Gowan English as proposed by the wife. [\[note: 18\]](#) There must be a proper balance in terms of engaging the child in various enrichment activities and her ability to enjoy her childhood.

19 Third, I disagreed that the husband was the abusive person that the wife had made him out to be. In his evidence, the husband had been candid to admit that there were times that he flared up due to his frustrations over the marriage. The parties also disagreed as to the husband's forcing the child to go out with him despite her protests. The husband might have gone overboard in his attempts to connect with the child. That was different from the deliberately abusive husband and father that the wife sought to paint the husband to be (see [8(c)] above). Therefore I disagreed with the wife's third submission.

20 In the circumstances, I found that the wife had failed to establish that the present case fell within the category of exceptions under which a sole custody order would be granted. I was thus of the view that it was in the best interests of the child for joint custody to be granted.

Should liberal or supervised access be granted?

The wife's submissions

21 With respect to access, the wife submitted that in *BG v BF* [2007] 3 SLR(R) 233 at [13] the Court of Appeal had held that, as far as possible, the child should be allowed to interact with both parents so that he can get as far as possible a normal family life. Therefore, unless there are strong

reasons to deny access, the non-custodial parent (*ie*, the parent without care and control) should always get access to the child. Supervised access would be necessary in certain circumstances (see *BKJ v BKK* [2013] SGDC 261 at [23]–[25]):

23 Supervised access will normally only be necessary if there is a risk of abuse or some other kind of danger to the child. There must, however, be a reasonable basis for the allegations of abuse or danger, and a mere unsubstantiated fear or suspicion on its own is most definitely not a sufficient ground to justify supervised access.

24 From the affidavits filed by the Defendant in this case, it was clear that there was no abuse of the child by the Plaintiff.

25 While the Defendant did not think much of the Plaintiff's parenting skills, there was no evidence that the Plaintiff's parenting skills were so very bad that the child would be in danger of harm.

22 On the facts, the wife submitted that the husband should be granted supervised access. Her reasons were as follows:

(a) The husband was a poor caregiver and required supervision with the child. The child had suffered injuries while being cared for by the husband and her paternal grandparents. Therefore it was advisable that supervised access be granted. [\[note: 19\]](#)

(b) The husband had a deteriorating relationship with the child and she was uncomfortable being alone with him. [\[note: 20\]](#)

(c) The husband was not serious about his parenting role as evinced from the fact that he failed to visit the child since October 2012. This was despite the wife not hindering his access to the child. [\[note: 21\]](#)

The husband's submission

23 The husband submitted that in *Tay Ah Hoe (m w) v Kwek Lye Seng* [1996] SGHC 120 ("*Tay Ah Hoe*"), the court had granted the father unsupervised access so that the daughter and the father could establish a proper relationship. In that judgment, it was clear that supervised access would only be granted in very exceptional circumstances:

... In cases where there is abuse of a child by a parent the offending parent may be denied custody and access, or access may only be permitted under supervision or other conditions for the safety of the child. ...

24 The husband submitted that on the facts there were no factors present such that supervised access was warranted. First, there were no allegations of abuse towards the child. Second, the wife's allegations of aggressive behaviour were, at best, bare assertions and related to the parties' quarrels towards the end of the marriage. Third, the presence of the wife and/or her mother would place the child in a position of conflict and diminish the chances of the defendant building any relationship with the child. Fourth, his relationship with the child had been good and the child had been happy to spend time with him between 2007 and 2010. It was only after he was chased out of the matrimonial home by the wife that the child started becoming estranged from him. Thus it was important that the father-daughter relationship be repaired. On that basis, the husband submitted that he should be

granted liberal access to the child in the following manner: [\[note: 221\]](#)

- (a) he would be granted access to the child at least 12 times a year;
- (b) he would give advance notice of such intentions to the wife's lawyers;
- (c) access would be unsupervised; and
- (d) the child should be allowed access to the father whenever she wished.

My decision

25 In the best interests of the child who had not seen or interacted with her father since 2012, I was of the view that, initially, there should be supervised access so that the child would not be stressed by the situation. There was sparse authority on the circumstances in which a grant of supervised access was warranted. I therefore take the opportunity to examine the situations in which supervised access should be granted.

(1) The legal position on access orders

26 It is trite that the starting point is that the court should always strive as far as practicable to maintain the parental bond between the child and both the custodial and non-custodial parent as it would be in the best interests of the child. Indeed, it is in this light that it was commented in Leong Wai Kum, *Elements of Family Law in Singapore* (LexisNexis, 2nd Ed, 2013) at p 339 that:

When a parent does not live with her child, it has become common to expect that she will get an order that gives reasonable access to the child.

In the Court of Appeal in *BG v BF*, the parties were foreigners and their children probably attended international schools. This was the wife's appeal against certain access orders of their sons aged ten and eight years old made in favour of the husband which appeal allowed the court opportunity to make illuminating observations regarding access. Andrew Ang J observed thus:

- (a) In our view, the paramount consideration here [in deciding access], once again, is the best interests of the children. The judge's existing order allows the Husband access to the children for the second half of the school Christmas holidays, and this was aimed at meeting the Husband's employers' requirement that he take his leave 'after Christmas and until the first week of January'. ... In our view, it is important for the Husband to have access to the children when he is able to take leave, for this would represent the only long stretch of time which the Husband would be able to spend with the children in any given year. ... [T]he Wife's appeal to vary the judge's order will be dismissed.

Consistent with the view of the Court of Appeal, the High Court in *Tay Ah Hoe (mw) v Kwek Lye Seng* had observed that it will require convincing evidence before denying a parent reasonable access to his or her child.

27 The starting position in England is similar to Singapore's starting position. As the English Court of Appeal commented in *In re L (A Child) (Contact: Domestic Violence)* [2001] Fam 260 ("Re L") at 269:

... The decisions about contact should be child-centred and related to the specific child in its

present circumstances but acknowledge that the child's needs will alter over different stages of development. The purpose of the proposed contact must be overt and abundantly clear and have the potential for benefitting the child in some way. The benefits of contact to the father were set out in detail [in the psychiatric report by consultant child psychiatrists] including, the importance of the father as one of the two parents, in the child's sense of identity and value, the role model provided by a father and the male contribution to parenting of children and its relevance to the child's perception of family life as an adult.

They set out many different purposes of contact, including: *the maintenance or reparation of beneficial relationships, the sharing of information and knowledge and the testing of reality for the child. ...*

[emphasis added]

28 In *K (Children)* [2005] EWCA Civ 1691 at [17], the English Court of Appeal in writing its judgment referred to a previous instance in which Hale LJ made an interim supervised contact order and cited the reasons given by her for doing so. Hale LJ's reason was that the order was made in order to "give [the children] and their father an opportunity to resume their relationship, which they were beginning to develop as a result of the earlier orders for supervised contact and to give the mother the opportunity of demonstrating ... to [the] court and to the court below, that she means what she says when she says she will comply with an order for supervised contact". The next question would then be whether the father's involvement in the child's life is in the best interests of the child. Is it a fact supported by research or is it just a legal fiction conjured by the courts? In answering this question, I took reference from the English legal position on the grant of contact orders, their equivalent of access, which is robust and makes extensive reference to social science research. Much research has gone into the principles that govern the grant of contact orders as well as the outcomes of the various contact orders that have been granted. The findings are that the position in law that parental involvement on both sides is indeed in the best interests of the child. In a paper commissioned by the Official Solicitor, Claire Sturge and Danya Glaser, "Contact and Domestic Violence – The Experts' Court Report" [2000] Fam Law 615 ("The Experts' Court Report") at pp 616–617, the authors comment that:

Contact with fathers, as opposed to other family members or people with whom the child has a significant relationship, brings the following, in particular, to bear, although the general principles remain the same:

- the father's unique role in the creation of the child;
- the sharing of 50% of his or her genetic material;
- the history of his or her conception and the parental relationship;
- the consequent importance of the father in the child's sense of identity and value;
- the role modelling a father can provide of the father's and male contribution to parenting and the rearing of children which will have relevance to the child's concepts of parental role models and his or her own choices about choosing partners and the sort of family life he or she aims to create.

...

In summary, the benefits include the meeting of his or her needs for:

- warmth, approval, feeling unique and special to a parent;
- extending experiences and developing (or maintaining) meaningful relationships;
- information and knowledge;
- reparation of distorted relationships or perceptions.

29 In effecting the above objective of promoting the bond between the child and the non-custodial parent, the English court has an extensive arsenal in the form of contact orders with different conditions attached to them. In Singapore, the same arsenal of options is available to the court through ss 126(1) read with 126(2)(d) of the Women's Charter (Cap 353, 2009 Rev Ed) ("the WC"), which allows the court to grant custody orders subject to reasonable access conditions to the non-custodial parent.

(2) The circumstances that should influence the grant of supervised access orders

30 In Singapore, while in the majority of cases unsupervised access is granted in order to promote and strengthen the bond between the child and the non-custodial parent, supervised access is sometimes necessary if (a) the parent has been estranged or alienated from the child or (b) the parent does not have a strong bond with the child and, consequently, the child is uncomfortable being left alone with the parent. The order is granted only in exceptional cases (see *Tay Ah Hoe*) and Alison Perry and Bernadette Rainey in their article "Supervised, Supported and Indirect Contact Orders: Research Findings" (2007) 21 Int J Law Policy Family 21 ("Supervised, Supported and Indirect Contact Orders") reveal the empirical observations that support the Singapore approach (at pp 30, 36 and 37):

Cases involving allegations of physical violence, harassment, sexual abuse or neglect of children featured disproportionately among the cases in which supervised/supported, indirect or no contact was ordered. Amongst the cases in which a final order for supervised/supported, indirect, or no contact was made, 72 per cent involved such allegations, while only a quarter involved no allegation of any sort of violence ...

...

Cases involving allegations of violence, as we have seen, were more likely to involve orders for supervised or supported contact, as were cases in which contact had been very problematic prior to the commencement of the proceedings. There were, however, no recurring distinguishing features discernible from the court files which would have merited a prediction that contact would be supervised or supported in a particular case and not in another. *There were no 'typical' cases in which supervised contact was ordered. Some of the cases in which supervised or supported contact was used were highly problematic, involving high levels of conflict, allegations of inappropriate parenting, lack of parenting ability, fear on the part of the children, severe mental illness on the part of the non-resident parent, and so on. In others, the supervision or support was ordered to overcome practical obstacles less linked to the child's welfare, and more to do with the fact that the parents had thus far proved themselves incapable of putting contact into practice without assistance.*

[emphasis added]

31 Besides the presence of untoward welfare factors such as family violence, other factors have been found to significantly influence the grant of supervised or supported access orders as well. In Joan Hunt and Alison Macleod, *Outcomes of applications to court for contact orders after parental separation or divorce* (London: Ministry of Justice, 2008) ("the Ministry Report") at p 241, it was found that four factors had a statistically significant association with whether any contact was to be granted and if so, what type. I set out the findings as follows:

Factors associated with whether there was to be any contact and the type of contact

Four factors proved to have a statistically significant association with the outcome of the proceedings in terms of whether there was to be any contact at all and if so of what type: ***whether the resident parent had raised serious welfare concerns; whether the resident parent was opposing contact at the start of the case; whether face to face contact was taking place at the start of the case and the age of the index child at the end of the proceedings.***

The association between welfare issues and whether there was to be any face to face contact was particularly striking, such cases accounting for 84% of all cases ending in indirect or no contact, compared with only 42% of those which ended in staying contact. It is important to note, however, that the mere raising of welfare concerns was not determinative: of the 143 completed cases in which at least one serious welfare concern was raised 60% ended with staying or unsupervised visiting contact. There was no single concern in which the proportion of cases ending in unsupervised contact fell to less than half, nor did multiple concerns tip the balance.

Similarly, although the initial position of the resident parent was clearly highly relevant – in 71% of the cases ending with no direct contact (44 of 61) the resident parent had initially been opposed to any contact, compared to only 25% (56 of 222) of other cases – opposition did not guarantee success. Of the 95 cases in which the resident parent was originally opposing contact, and the precise outcome was known, more than half (54; 57%) ended in direct contact, and 32% in staying contact.

In all, 61% of resident parents (99 of 163) who were opposing either staying or unsupervised contact or resisting any contact at all failed to achieve their objectives.

In terms of previous contact status in almost half the cases which ended up with staying contact (62 of 134; 46%) there was some contact at the time of the application compared to only 5% (3 of 61) of those where there was to be no face to face contact. Three-quarters of children in cases where there was to be staying contact (99 of 131) had seen the contact parent within the three months prior to the application (compared to only a fifth of those where there was to be no contact, 12 of 56 where this was known) and the gap extended beyond six months in only 14% (compared to 55% of those with no direct contact).

Again, however, the pattern was by no means invariable: 65% of non-resident parents who had no contact at the outset (117 of 181) finished up with either staying or visiting contact. Similarly over half the non-resident parents who had not seen their child for more than six months did get direct contact restored and 27% ended up with staying contact.

Children who ended up with supervised contact tended to be very young, with a mean age of four years, compared to six for unsupervised visiting and over six for staying contact. The likelihood of the case ending with direct contact fell off sharply in adolescence: eight of the 13

cases involving index children aged 13 and above by the end of proceedings ended with no face to face contact. This was clearly related to the greater likelihood that where older children were expressing opposition to contact their wishes would be heeded. All children aged 13 and above in this position ended up with either no face to face contact or contact if they wished it, compared to only 15 of the 29 children aged between five and nine. The significance of the views of older children in the outcome of proceedings was a theme which emerged very clearly from our interview data.

[emphasis added in italics and bold italics]

32 From the above, I am therefore of the view that unsupervised access should be awarded, unless the following exceptional circumstances are present:

- (a) there are serious welfare concerns regarding the non-custodial parent such as violence or inappropriate parenting if the child were left unattended with the non-custodial parent;
- (b) on an examination of the state of the relationship between the non-custodial parent and the child before the commencement of the divorce proceedings and after the commencement of the divorce proceedings, it is found that the child has been estranged from the non-custodial parent such that the parental-child relationship is in need of serious repair (for instance, if the child is fearful in meeting the non-custodial parent); or
- (c) factors exist such that it is difficult for unsupervised access to be effectively implemented (eg, where the relationship between both parents is so acrimonious that the custodial parent frustrates the effectiveness of unsupervised access orders and unsupervised access is not possible without detriment to the child).

33 Where possible, courts should also have regard to the wishes of the child if he or she is of a sufficiently mature age to express an independent opinion. One would hope that the child will hold a positive view of the non-custodial parent. Even if the child should view the non-custodial parent in a fearful or negative light, the courts should nevertheless seek to repair the parental-child relationship where the circumstances permit. In such situations, the courts can, for instance, assist the adolescent child in identifying the underlying reasons why he or she holds such a view and whether this view has been influenced by any acrimony that the custodial parent holds against the non-custodial parent. This would ensure that the child (a) is more self-aware of why he or she holds a particular view of the non-custodial parent and (b) ensure that he or she truly espouses an independent opinion that the courts can consider in making a decision in his or her best interests.

(3) The empirical observations on the success of supervised orders in repairing or promoting parental-child relationships

34 Following on from the above, I am of the view that the above guidelines are in line with the spirit of s 125(2) of the WC and the underlying policy objective of keeping familial bonds intact despite the breakdown of the marriage. Supervised, Supported and Indirect Contact Orders at p 27 reveals that in 41% of the cases where supervised or supported contact were ordered, the relationship between the non-custodial parent and the child benefitted. The significant percentage is testament to the effectiveness of supervised access orders in restoring parental-child bonds and its continued relevance in family law jurisprudence.

35 On the facts of this case, the evidence showed that the husband had been away for about three years in the US. He agreed that he was estranged from the child, who was still of a young age,

and that presently they did not have a good relationship. While the husband may have done so with good intentions, it appeared at times that he went overboard in his attempts to connect with the child. At times, it seemed that he was coercing her into bonding with him although she appeared to be extremely reluctant. [\[note: 23\]](#)

36 Nevertheless, the husband was not solely to blame for this poor state of affairs. It also seemed that the wife had not been the most cooperative person when it came to access arrangements between the husband and the child. [\[note: 24\]](#) In his supplemental submissions, the husband indicated that he was agreeable to attend a parenting course but, based on his past experiences in seeking to maintain his relationship with the child and his experiences at the Centre for Family Harmony ("CFH"), attendance by him alone would not resolve the difficulties that he had encountered in seeking to have a relationship with the child. He recognised that his attempts at reconciliation with the child could not be successful without the cooperation of the wife, as stated in the aforementioned submissions: [\[note: 25\]](#)

3. The understanding and co-operation of both the [wife] and the child cannot be undermined. The [husband] believes that the [wife] has through the years, been alienating the child from him and/or at the very least, was not helpful in his efforts to spend time and to get to know the child. In any case, whether the child's reaction to the [husband] was due to the [husband], the [wife's] pressure on the child, or simply the perception/need of the child to empathise and align herself with her caregiver the [wife], the fact remains that all three of them need to want the [husband] to have a relationship with the child.

4 It is accordingly the [husband's] submission that while he has no objections to attending any parenting course, he is of the view his efforts will again be futile unless the [wife] and the child likewise attend counselling or similar courses. The [husband] has also asked that the court be informed as to the hurt and pain he suffers each time such attempts fail and/or he is rejected by the child and urges the court to consider the necessary to reduce the likelihood of failure.

The result was that the child became estranged from the husband and the consequence was that both of them would have to embark on the slow journey towards eventual reconciliation.

37 In the circumstances, I found that supervised access by the CFH was more suitable presently than unsupervised access. It would also be beneficial for both the husband and the wife to attend parenting courses and counselling sessions to reduce the acrimony between them. Supervised access together with parenting courses and counselling sessions would be able to achieve the aims sought by the husband. If it is true, as the wife claimed, that she had been encouraging the husband to visit the child in the past, she should have no objections to this arrangement. She should instead be facilitative of this arrangement. This would be beneficial for all parties. It would ensure that the husband acts appropriately at all times, while also ensuring that the period of access between the husband and the child would be left undisturbed and uninterrupted. Finally, it would provide a platform for the husband and child to re-establish their father-daughter relationship in the presence of professionally-trained staff. Eventually, the day may come when unsupervised access would be unnecessary and the access order may be varied when the opportune moment arrives.

38 For the above reasons, I made the following orders:

(a) Care and control of the child was given to the wife while the husband was given supervised access.

(b) Husband and wife would undergo a parenting course and counselling. Each party was to bear his or her own cost. The child would also attend counselling so that she could relate to the father better.

(c) The parenting course and counselling sessions in the preceding sub-paragraph should be completed within three months from the date of the judgment. Thereafter, the husband would have reasonable access to the child on the following terms:

(i) The husband was given access to the child at least once a fortnight. He had to give advance notice of at least two days to the wife.

(ii) The CFH would supervise the first four sessions of access by the husband. Thereafter the CFH would submit a report with recommendations to the court.

(iii) The child would be allowed access to the husband as and when the child wishes to see the husband.

Maintenance

How much maintenance should be granted to the wife?

39 On the issue of maintenance of the wife, the wife submitted that all she wanted was a nominal sum of \$1 [\[note: 26\]](#) in order to preserve her rights in the event anything untoward happens to her in the future. The wife referred to *Tan Bee Giok v Loh Kum Yong* [1996] 3 SLR(R) 605 ("*Tan Bee Giok*") in which the Court of Appeal held that the court could not vary the maintenance order under s 112 of the Women's Charter (Cap 353, 1985 Rev Ed) (now s 118 of the present WC) if there was no subsisting order for maintenance. The husband submitted that she should get no maintenance.

40 Given that the wife was earning a good salary and she only wanted nominal maintenance to preserve her right for maintenance in the future should the need arise, I decided for pragmatic reasons that it was not necessary to order nominal maintenance merely to preserve her rights to maintenance in future. To achieve this end, I indicated that this would not preclude her from applying for maintenance in the future should there be a need for her to do so. Thus I made no order as regards her maintenance. I am aware that the Court of Appeal in *Tan Bee Giok* made the following observations (at [15]):

If an application for maintenance is dismissed as in this case, there is no *subsisting* order for maintenance for the court to vary and s 112 has no application. A pre-condition to the operation of s 112 is the existence of a maintenance order: see *Mills v Mills* [1940] P 124 and *Stephen v Stephen* [1931] P 197. Consequently, if the order below stands the wife will be precluded forever from applying to court for maintenance. Thus, to retain the wife's right to maintenance in the future, a nominal order should have been made so that an application may be made subsequently to invoke the jurisdiction of the court to vary the maintenance order.

41 In that case, the court below dismissed the wife's application for maintenance as she had the financial resources. This caused the Court of Appeal to hold that in the future the court could not vary the maintenance order under s 112 of the Women's Charter (Cap 353, 1985 Rev Ed) as there was no subsisting order for maintenance to vary. In the instant case, should the wife require maintenance in the future, she can apply for a fresh maintenance order under s 113 of the present WC and not a variation of a maintenance order. Hence her right to maintenance had been preserved and *Tan Bee Giok* was not applicable as I did not dismiss her application for maintenance and merely

made no order for maintenance.

How much maintenance should be granted to the child?

42 With respect to the child, the wife submitted that the husband should pay a monthly sum equivalent to half of the child's expenses, including educational expenses, until she completed tertiary education. The husband, however, proposed that maintenance for the child should be borne equally between them and it should amount to \$500 each per month. [\[note: 27\]](#)

43 It is trite that maintenance is ordered in order to meet the reasonable needs of the child and if the child's lifestyle is overly extravagant, the husband should not be made to bear the costs of it. The husband submitted that it was the case in the present circumstances, relying on *Wong Ser Wan v Ng Cheong Ling* [2006] 1 SLR(R) 416 at [101] in support:

101 I have concluded therefore that Ezine has satisfied the requirements of s 69(5)(c) of the Act and that the provision of maintenance is necessary because he was during the relevant period receiving instruction from an educational establishment. I would not award him maintenance despite that, if I was satisfied that the husband was totally unable to pay such maintenance. *As I have found earlier, however, the husband does have assets and I think it is right to make him support Ezine's education to a reasonable extent.* Also, since Ezine has been out of the Singapore school system since he was sent to boarding school at the age of ten, I do not think the husband can reasonably cavil at Ezine's choosing to study in the US. *On the other hand, I consider that Ezine's claim for maintenance was pitched at an extremely high level. He has lived the life of an extremely wealthy young man and his mother does not seem to have put him on any budget but has simply given him whatever funds he has asked for. As a result, he has been able to indulge in a great many expensive pursuits and it would not be correct to ask the husband to foot the bill for all of these.* I would also restrict the period for which maintenance is awarded to a period of 45 months being the period during which he could have obtained his degree from Lynn University had he studied there continuously from the time he first enrolled. This 45-month period is calculated from enrolment in September in the year of entry to graduation in May in the fourth year of studies. [emphasis added]

44 The parties' did not agree on the breakdown of the child's expenses. The wife submitted that the total expenses for the child amounted to \$3,597.50 while the husband submitted that a reasonable sum would be \$1,337.30. I set out a comparison table below: [\[note: 28\]](#)

Item	Wife's estimate	Husband's estimate
Food	\$500	\$300
School fees and CCA	\$50	\$150
Transport fees	\$65	\$65
Course fees for piano, Growan English, written expression lessons, Chinese classes, swimming, gymnastics and JEI Maths	\$1,200	\$600
School, assessment and storybooks	\$100	\$60
Stationery and school bag	\$50	\$10

Clothing/shoes etc	\$100–\$200	\$50
Allowances and rewards	\$300	\$70
Handphone	\$30–\$80	\$10
Stemcord storage	\$24.50	\$22.30
Dental	\$33	\$0
Medical	\$20	\$0
Insurance premiums	\$207	\$0
Travel expenses	\$750	\$0
Subtotal	\$3,597.50	\$1,337.30

45 I was of the view that a sum of \$1,500 for the child's monthly expenses was a reasonable figure, of which the husband should contribute half. This meant that the husband would have to contribute \$750 a month as maintenance for the child. In arriving at my decision, I noted that the wife was indulging the child in many things which might be nice to have, but were not reasonably necessary for the child's needs. Examples of these were in the child's bill for her food which included bird's nest, snow jelly and cordyceps. The course fees for the child which amounted to \$1,200 per month appeared to be extravagant and I also found it hard to believe that the child needed to spend \$100 to \$200 per month on clothing and shoes. The sum would amount to \$2,400 a year and that seemed to be an extravagant amount. Lastly, I was of the view that the allowances and rewards for good performance was excessive as a monthly sum of \$300 would mean that the child would receive up to \$3,600 a year under the reward system implemented by the wife. While rewards can serve a helpful function in encouraging a child to do well, an excessive amount would be akin to an unhealthy overdose of supplements, which would fall foul of the objectives for which maintenance orders are designed.

46 The wife might have had the best intentions for the child in wanting to maximise her potential and in wanting her to have the best materially. However, while there are many things in life which may be nice to have, they should not be deemed to be reasonably necessary for the child's needs. In arriving at the figure of \$1,500, it was my view that the wife's figure was overindulgent and the husband's figure was much closer to what would be reasonably necessary for the child. Thus, I ordered that the husband and the wife were to share equally in the maintenance of the child, which I estimated at \$1,500 per month.

Matrimonial asset division

47 With respect to the division of matrimonial assets, the parties had agreed that they would mutually retain all their respective properties in their sole names except the matrimonial home at Jalan Daub as they could not agree on how much each party had contributed to the matrimonial home. Thus I focused solely on the division of the matrimonial home. The wife submitted that the division of the matrimonial home should be in the ratio of 95:5 in her favour. [\[note: 29\]](#) The husband on the other hand submitted that the division should be 65:35 in his favour. [\[note: 30\]](#)

Direct contributions

48 In *Anthony Patrick Nathan v Chan Siew Chin* [2011] 4 SLR 1121 at [16], Quentin Loh J explained that the division of matrimonial assets was to be done in the following manner:

- (a) first, the value of the pool of matrimonial assets was to be determined;
- (b) next, the direct contributions of the parties were to be considered;
- (c) third the indirect contributions of the parties were to be considered; and
- (d) finally, a just and equitable apportionment of the assets was to be done and orders made to effect the division.

The wife's submissions

49 At the hearing the wife's counsel alerted the court to an error in the figure at p 17 of his written submissions. The figure at item seven should read \$530,515.56 and not \$797,336.70 as there would be double counting. [\[note: 31\]](#) Therefore this figure was adjusted. Unfortunately, counsel did not amend the final total and percentage. I had done so accordingly and the table below shows the wife's breakdown, after taking into account the aforementioned alteration: [\[note: 32\]](#)

Item	The wife's contribution	The husband's contribution
Initial down payment in cash	\$80,000.00	
Balance of purchase price paid in cash	\$156,238.45	
Balance from payment to conveyancing lawyer after meeting shortfall from sale of the previous matrimonial property	\$30,582.69	
Central Provident Fund ("CPF") contributions	\$376,992.07	\$419,289.25
Property tax	\$14,400.00	
Cash repayments towards the mortgage loan	\$530,515.56	
Renovation costs	\$43,716.82	
Chubb security	\$6,850.00	
Total	\$1,239,295.59	\$419,289.25
Percentage	74.72%	25.28%

50 At the hearing the wife's counsel submitted that her direct contributions amounted to 75% while the husband's direct contributions were 25%. [\[note: 33\]](#) The wife argued that the husband's sole direct contributions towards the matrimonial home were the deductions from his CPF. Hence she submitted that she had made significant direct contributions towards the matrimonial home.

The husband's submission

51 The husband argued that he was earning more than the wife when he was a pilot employed by

the RSAF. The wife started to earn a higher salary from 2009 when she completed her Masters in Financial Engineering. During the subsistence of the marriage, the husband's salaries were credited into the parties' bank account. The wife managed the finances for the family and used this joint account for the household. The husband submitted that his IRAS tax statements for the year of assessment 2000 to 2011 showed that about \$1.9m had been deposited into the joint account from the time of their marriage in 1999 till the breakdown of the marriage in 2010. [\[note: 34\]](#) He further alleged that he paid a sum of \$5,000 each month from March 2007 to November 2011 towards the mortgage repayment. [\[note: 35\]](#)

52 With respect to his direct contributions towards the matrimonial home, the husband presented three alternatives. The essence of the alternatives related to two disputed large items. The first sum was the initial upfront cash payment in 2006 for \$266,821.40. The second was the mortgage payments from March 2007 to December 2011 which amounted to \$363,534.54 in total. The wife alleged that these disputed sums were paid by her while the husband claimed he made these payments. The three alternatives were as follows. [\[note: 36\]](#)

(1) Alternative One: The disputed items were entirely the husband's contributions

Item	The wife's contribution	The husband's contribution
CPF Contributions	\$327,449.23	\$359,800
Renovations	\$43,716.82	\$12,000
Chubb security	\$6,850	NIL
Cash	\$166,981.02	NIL
Disputed items	NIL	\$266,821.40
		\$363,534.54
		\$1,002,155.94
Total	\$544,977.07	
Percentage	35%	65%

(2) Alternative Two: The disputed items were contributed 35:65 in favour of the husband

53 The next alternative was based on the husband's claim that for the earlier matrimonial property at Eastwood their direct contributions were 35:65 in favour of the husband. The wife disagreed as she argued that it should be 46:54 in favour of the husband. [\[note: 37\]](#) If the disputed items were divided 35% to wife and 65% to husband the apportionment for the direct contributions for the matrimonial home would be as follows:

Item	The wife's contribution	The husband's contribution
CPF Contributions	\$327,449.23	\$359,800

Renovations	\$43,716.82	\$12,000
Chubb security	\$6,850	NIL
Cash	\$166,981.02	NIL
Disputed items	\$93,387.49	\$173,433.91
	\$127,237.09	\$236,297.45
Total	\$765,621.65	\$781,531.36
Percentage	49%	51%

(3) Alternative Three: The disputed items were divided equally between the parties

Item	The wife's contribution	The husband's contribution
CPF Contributions	\$327,449.23	\$359,800
Renovations	\$43,716.82	\$12,000
Chubb security	\$6,850	NIL
Cash	\$166,981.02	NIL
Disputed items	\$133,410.70	\$133,410.70
	\$181,767.27	\$181,767.27
Total	\$860,175.04	\$686,977.97
Percentage	56%	44%

My decision

54 Besides the disputed items, the other items in the above tables were not disputed. As regards the disputed items, I noticed that the relevant period was from 2006 to 2011. During that period, the husband was earning more than the wife until after 2009. In fact, from the husband's tax returns from 1999, the year they were married, till 2010, when the husband was told to leave the matrimonial home, the accumulated income of the husband was about \$1.9m. This sum was credited into the parties' joint account. It was not denied that the wife managed the financial affairs of the family. At that time, the marriage was not on the rocks so the management of the family funds was not run like a business. In other words, it was left to the wife to decide from which account to pay the monthly mortgage for the loan of the matrimonial home. For reasons only known to her, she chose to use her funds from her personal accounts instead of their joint account to make the mortgage payments. It could be a matter of convenience that she chose to use the joint account in which the husband had credited his salaries for household and other expenditures while she kept her personal accounts for the purpose of savings for the family. At that time, as far as the parties were concerned, it did not matter which account the money came from for the payment of any expenses relating to the family including mortgage payment. Therefore, with regards to the disputed sums which each party claimed was his or her direct contributions towards the matrimonial home, I decided to divide them equally.

Hence the direct contributions of the parties would be 56:44 in favour of the wife.

Indirect contributions

The wife's submissions

55 The wife submitted that she had made substantial indirect contributions to the family in the form of the following which were *material*: [\[note: 38\]](#)

- (a) she had paid \$10,286.34 to purchase furniture for the matrimonial property while the husband was overseas;
- (b) she took it upon herself to rectify the defects in the matrimonial property and, during the time the husband was away, contributed towards the household expenses;
- (c) she had done all the marketing and grocery shopping for the family;
- (d) she had remitted up to US\$10,000 to the husband every three to four months when he was in the US and had to transfer S\$23,139 to him in January 2007;
- (e) she had paid for the husband's hand phone bills since he returned from the US in 2007; and
- (f) she had paid for the child's baby accessories, medical fees, enrichment courses and daily expenses.

56 In contrast, the husband remained uninvolved and uninterested, being a distant person who was often impatient towards her and the child. The wife submitted several cases [\[note: 39\]](#) to provide some guidance on what might be just and equitable in the present case. In those cases which have similar characteristics as this case, there was a wide variance in terms of percentages for indirect contributions. The range is from 6% to 50% depending largely on the facts and merits of each case. The wife's counsel in his oral submissions urged the court to grant her 15% to 20% for her indirect contributions towards the family. [\[note: 40\]](#) Hence she submitted that she should be given 75% (direct contributions) plus 20% (indirect contributions), *ie*, 95%, of the matrimonial home.

The husband's submissions

57 The husband, on the other hand, submitted that in dividing the matrimonial assets, the courts have considered and given weight to the fact that parties had agreed for one party's income to be used for household expenses with the remaining income and other party's income used for savings. He cited the following cases in support:

- (a) *BHL v BHM* [2013] SGHC 92: This case involved a 10-year marriage in which the husband's case was that the parties had agreed that his income would be used for household expenses while the remaining income and the wife's income would be used as savings for the family. The parties had a joint account into which the husband's salary and bonus was deposited. The court was satisfied that the household and family expenses were borne by the husband.
- (b) *Chan Yeong Keay v Yeo Mei Ling* [1994] 2 SLR(R) 133: This case involved a 23-year marriage where the wife was the sole breadwinner and the husband had contributed by taking care of the home and buying household necessities with money that he earned from tuition. The court recognised that the husband had made substantial contributions to the marriage and

relieved the wife of having to pay for items that she would otherwise have had to pay for.

(c) *BCB v BCC* [2013] 2 SLR 324: In this case, the court awarded the husband 40% of the matrimonial assets as he had contributed substantially to the household expenses.

58 In the premises, the husband submitted that the court should give weight to the following facts in the marriage with respect to the household expenses: [\[note: 41\]](#)

(a) It had been agreed that the household expenses would be paid out of the joint account into which the husband's savings and salary were deposited. This relieved the wife of having to spend money that she otherwise would have.

(b) The wife's salary was used as savings for the family.

(c) The husband was not asking for a share of the wife's savings which she had accumulated over the years.

59 The husband also submitted that he had been a good husband and father. Throughout the marriage, he had placed his entire income at the disposal of the family. He had also been very encouraging towards the wife's career, supporting her both financially and emotionally. While he had been away from 2004 to 2007, upon his return, he was the child's primary caregiver. [\[note: 42\]](#) The husband counsel in his oral submission argued that the husband's indirect contributions were as substantial as the wife. Hence this would cancel out the parties indirect contributions. Thus the wife should not be given any portion of the matrimonial home as indirect contributions. Alternatively, based on the wife's case precedents on indirect contributions, she should only be given 11% to 15%. [\[note: 43\]](#) However, according to the husband's case precedents, [\[note: 44\]](#) the wife's indirect contributions should be 11% to 12%. [\[note: 45\]](#) Therefore, the husband did not pursue his earlier share of 80:20 [\[note: 46\]](#) in his favour but instead moderated it to 65:35. [\[note: 47\]](#)

My decision

60 I was of the view that the wife made more indirect contributions than the husband. The husband had spent three years away from home and during those years, she had to handle not just the child's most important formative years but also take care of the household, while coordinating with the husband in the process. Even when the husband returned, she continued to be actively involved in the child's life even though she was doing her further studies at the same time. I accepted that during that period the husband played a much more active role in the child's life than in the first three years. I thus awarded her about 16% for her indirect contributions to the marriage.

61 Having regard to the parties' direct and indirect contributions and applying the broad brush approach, a just and equitable division of the matrimonial home would be 70:30 in favour of the wife.

Conclusion

62 In summary, I made the following orders.

Custody and access

63 The husband and the wife would have joint custody of the child.

64 Care and control of the child was given to the wife while the husband was given supervised access.

65 Husband and wife would undergo a parenting course and counselling. Each party was to bear his or her own cost. The child would also attend counselling so that she could relate to the father better.

66 The parenting course and counselling sessions in the preceding paragraph should be completed within three months from the date of the judgment. Thereafter the husband would have reasonable access of the child on the following terms:

(a) The husband was given access to the child at least once a fortnight. He had to give advance notice of at least 2 days to the wife.

(b) The CFH will supervise the first four sessions of access by the husband. Thereafter the CFH would submit a report with recommendations to the court.

(c) The child would be allowed access to the husband as and when the child wishes to see the husband.

Maintenance

67 There was no order made as to the wife's maintenance. However, the wife would not be precluded from applying for maintenance for herself in the future if there was a need.

68 The husband and the wife agreed to share equally in the maintenance of the child, which the court estimated at about \$1,500 per month.

The matrimonial home

69 For the division of the matrimonial home at Jalan Daub, I found that the direct contributions of the husband and wife were 56:44 in favour of the wife. This was a 12-year marriage with a child, and for indirect contributions I awarded the wife 16% as her indirect contributions were substantially more than the husband. After taking into consideration the direct and indirect contributions of the parties, the matrimonial home was divided 70:30 in favour of the wife.

70 The wife was given the first option to retain the matrimonial home. If this option was not exercised within six months of the judgment, the matrimonial home was to be sold in the open market.

71 If the wife decided to buy over the matrimonial home, the husband would transfer all his rights, shares and interests in it to the wife upon the wife's payment to him for his share, if any. The wife would bear all the expenses for the transfer.

72 This order was made subject to the Central Provident Fund Act (Cap 36, 2013 Rev Ed) ("CPF Act") and any subsidiary legislation made thereunder. The CPF Board was to give effect to the terms of this order in accordance with those provisions.

The other matrimonial assets

73 The husband and wife agreed to keep his or her own assets other than the matrimonial home. Each party would consent to or facilitate the removal of his or her name as joint account holder or

beneficiary under the insurance policies.

74 The wife would return the husband's Officer Cadet School sword and purple pendant.

Other orders

75 The Registrar of the Supreme Court was empowered to execute, sign, or indorse all necessary documents relating to matters contained in this order on behalf of either party should either party fail to do so within seven days of the written request being made to the party.

76 I made no order as to costs.

[\[note: 1\]](#) Df's Bundle of affidavits Tab E at para 5.

[\[note: 2\]](#) Pf's Bundle of affidavits Tab A at p 1.

[\[note: 3\]](#) Df's Bundle of affidavits Tab A at p 7.

[\[note: 4\]](#) Pf's written submissions at para 38.

[\[note: 5\]](#) Pf's written submissions at para 39(c).

[\[note: 6\]](#) Pf's written submissions at para 40.

[\[note: 7\]](#) Pf's written submissions at para 42.

[\[note: 8\]](#) Df's written submissions at para 20.

[\[note: 9\]](#) Df's written submissions at paras 21–22.

[\[note: 10\]](#) Df's written submissions at para 23.

[\[note: 11\]](#) Df's bundle of affidavits Tab B at para 61.4.

[\[note: 12\]](#) Df's bundle of affidavits Tab B at para 61.2.

[\[note: 13\]](#) Df's bundle of affidavit Tab B at para 27.7.

[\[note: 14\]](#) Df's bundle of affidavits Tab B at para 27.9.

[\[note: 15\]](#) Pf's bundle of affidavits Tab E at paras 14–15.

[\[note: 16\]](#) Df's bundle of affidavits Tab B at paras 29–30.

[\[note: 17\]](#) Pf's bundle of affidavits Tab A at para 21(d).

[\[note: 18\]](#) Pf's bundle of affidavits Tab A at para 21(d).

[\[note: 19\]](#) Pf's written submissions at para 45.

[\[note: 20\]](#) Pf's written submissions at para 46.

[\[note: 21\]](#) Pf's written submissions at paras 47–48.

[\[note: 22\]](#) Df's written submissions at para 25.

[\[note: 23\]](#) Pf's bundle of affidavits Tab A at pp 32–33.

[\[note: 24\]](#) Df's bundle of affidavits Tab A at p 11.

[\[note: 25\]](#) Df's supplemental submissions at paras 3–4.

[\[note: 26\]](#) Minute sheet dated 24 October 2014 at p 1.

[\[note: 27\]](#) Pf's written submissions at para 50.

[\[note: 28\]](#) Pf's written submissions at pp 71–77.

[\[note: 29\]](#) Minute sheet dated 24 October 2014 at p 3.

[\[note: 30\]](#) Minute sheet dated 24 October 2014 at p 6.

[\[note: 31\]](#) Pf's further written submissions at para 8.

[\[note: 32\]](#) Pf's further written submissions at p 20.

[\[note: 33\]](#) Minute sheet dated 24 October 2014 at p 3.

[\[note: 34\]](#) Df's written submissions at para 31.

[\[note: 35\]](#) Df's written submissions at para 3.

[\[note: 36\]](#) Df's written supplementary submissions at p 12.

[\[note: 37\]](#) Pf's written submissions at p 13.

[\[note: 38\]](#) Pf's written submissions at pp 22–23.

[\[note: 39\]](#) Pf's further written submission paras 15 to 30

[\[note: 40\]](#) Minute sheet dated 24 October 2014 at p 3.

[\[note: 41\]](#) Df's written submissions at para 39.

[\[note: 42\]](#) Df's written submissions at para 41.

[\[note: 43\]](#) Df's oral submission on 24 October 2014

[\[note: 44\]](#) Df's written supplemental submissions at Schedule 1.

[\[note: 45\]](#) Minute sheet dated 24 October 2014 at p 5.

[\[note: 46\]](#) Df's written submissions at para 43.

[\[note: 47\]](#) Minute sheet dated 24 October 2014 at p 6.

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