IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2016] SGHC 44

Divorce Transfer No 382 of 2008

Between

AZZ

… Plaintiff

And

BAA

… Defendant

GROUNDS OF DECISION

[Family law] — [Matrimonial assets] — [Division]
[Family law] — [Maintenance]
[Family law] — [Custody]

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AZZ
v
BAA

[2016] SGHC 44

High Court — Divorce Transfer No 382 of 2008
Vinodh Coomaraswamy J
19 March; 27 April; 4 May; 3, 4 and 18 June; 14 and 30 July, 31 August; and 18 November 2015

31 March 2016

Vinodh Coomaraswamy J:

Introduction

1 The husband and wife in these divorce proceedings married in 2003.[1] They had a daughter in 2004 and a son in 2006. In 2008, the wife commenced these proceedings relying on the husband's unreasonable behaviour.[2]

2 I have now heard the ancillary matters in these proceedings. They comprise: (a) arrangements for the children; (b) division of the matrimonial assets; (c) maintenance for the wife; and (d) maintenance for the children.

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1 Statement of claim for divorce ("SOC") at para 1.

2 SOC at para 6.

Having heard the parties' submissions and considered their evidence, I have ordered that:

(a) The parties have joint custody of the children, with care and control to the wife and what I consider to be liberal access to the husband;

(b) The matrimonial assets be divided such that the wife receives 41.9% and the husband receives 58.1% of these assets;

(c) The wife receive no maintenance, now or in the future;

(d) The husband pay maintenance for the children in the total sum of $9,500 a month and, in addition, pay 50% of any medical expenses which either child incurs on a single occasion if those expenses exceed $500 and are not covered by insurance; and

(e) The husband pay the wife the sum of $42,547.02 being arrears of maintenance due to the wife as at 3 June 2015.

3 In exercising my discretion to divide the matrimonial assets, each party invited me to draw an adverse inference against the other arising from what was said to be the other's failure fully and frankly to disclose the true extent of his or her assets. For the reasons I give at [116] – [118] below, I have declined to draw any such inference.

4 Both parties have now appealed against my decision. The husband appeals against the entirety of my decision. The wife appeals against only that part of my decision in which I have declined to draw an adverse inference against the husband in dividing the matrimonial assets. I now give reasons for my decision.

The parties

5 Both the wife and the husband are wealthy in their own right and successful in their careers.[3]

6 The wife was born in 1972 and is 43 years old. When she and the husband married in 2003,[4] she had already established what is by all accounts a successful career as a private banker. She continues to be employed as a private banker to this day.

7 The husband was born in 1966 and is 49 years old. He is an investment banker, most recently employed as the Head of Hedge Fund Sales by a leading bank.[5] In January 2007, he resigned his employment.[6] Although he has been without employment since then, he has continued to deploy his considerable financial skills in trading and investing his own funds for his own account.[7] For that reason, he prefers to describe his employment status as self-employed rather than unemployed.

8 The husband's evidence is that he gave up employment in 2007 because he wanted to be a stay-at-home father for his two children, and especially for his son who was diagnosed in infancy with special needs.[8] The

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3 Husband's Affidavit of Assets and Means filed on 6 April 2009 ("Husband's 1st AOM") at para 2; Wife's affidavit filed on 10 April 2008 at para 9; Wife's Affidavit of Assets and Means filed on 7 April 2009 ("Wife's 1st AOM") at para 3.

4 SOC at para 1.

5 Wife's Affidavit of Assets and Means filed on 8 August 2014 ("Wife's 4th AOM") at para 44.

6 Wife's 4th AOM at para 63.

7 Husband's 1st AOM at para 10.

8 Husband's affidavit filed on 25 March 2008 at para 6; Husband's 1st AOM at para 2

wife rejects this explanation as a lie.[9] She says that the husband has remained without employment from 2007 purely to gain an advantage in these proceedings. For reasons I will come to (see [76] below), I agree with the wife.

The marriage

9 As I have mentioned, the parties have two children. The daughter was born in 2004.[10] She is like any other twelve-year-old child, save only for the inevitable trauma she is suffering as a result of her parents' divorce.

10 The son was born in 2006.[11] He was diagnosed as suffering from Williams Syndrome when he was only nine months old.[12] Williams Syndrome is a rare genetic condition characterised by difficulties in physical and mental development, limited spatial skills and motor control, intellectual disability and cardiovascular defects.[13] As a result, the son suffers from a number of disabilities of a mental and physical nature and from delays in speech and physical development.[14]

11 In October 2007, the wife came to the conclusion that the parties' marriage had broken down irretrievably. She put the husband on notice through her solicitors that she wanted a divorce. She invited him, for the sake

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and 9.

9 Plaintiff's written submissions dated 3 February 2015 at para 81 to 84.

10 SOC at para 4(a).

11 SOC at para 4(b).

12 Statement of Particulars for Divorce filed on 23 January 2008, para 1(d).

13 Statement of Particulars for Divorce filed on 23 January 2008, para 1(d).

14 Wife's affidavit filed on 10 April 2008 at para 16; Wife's 4th AOM at para 85.

of the children, to resolve their issues out of court and without acrimony.[15] The wife commenced these proceedings in January 2008.

12 Despite the wife's solicitors' letter and despite the commencement of these proceedings, neither spouse left the matrimonial home immediately. On the morning of 25 March 2008, however, the wife took both children and left the matrimonial home permanently.[16] Her evidence is that she did so because she found the domestic situation by that time to be "unbearable".[17] The parties have resided separately ever since.

13 Although the husband initially opposed the wife's application for a divorce, he withdrew his opposition at a relatively early stage.[18] Interim judgment was therefore entered unopposed in 2009.[19] On the husband's application, that judgment was made final in 2010, even though the ancillary matters were still pending (*cf* s 123(1) of the Women's Charter (Cap 353, 2009 Rev Ed) ("Women's Charter") and r 59(3) of the Women's Charter (Matrimonial Proceedings) Rules (Cap 353, R 4, 2006 Rev Ed) then in force).[20] The husband made the application because he wished to marry Ms X. At the time of the application, the husband and Ms X had already had one child together and were expecting their second child. The husband and Ms X have since had a third child.

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15 Husband's affidavit filed on 25 March 2008 at page 39 and 41.

16 Wife's affidavit filed on 10 April 2008 at para 17.

17 Wife's affidavit filed on 10 April 2008 at para 17.

18 Husband's affidavit filed on 13 September 2010 at para 4.

19 Interim Judgment 549/2009.

20 SUM 15415/2010; RAS 208/2010; Final Judgment 4702/2010.

14 These proceedings have been long and tortuous, attended at every step by a dismaying level of acrimony. Husband and wife have levelled serious accusations against each other, written acrimonious correspondence to each other and to third parties, used their children as pawns in their battle, made allegations of physical abuse against each other and filed police reports. They have taken out numerous interlocutory applications, many of them unmeritorious, and filed appeal upon appeal, many of them equally unmeritorious. That is why the parties' divorce has lasted far longer than their marriage.

15 I shall deal with the arrangements for the children before turning to the division of the matrimonial property.

Arrangements for the children

Interim arrangements for the children

16 My decision on the arrangements for the children takes place against the backdrop of various orders for interim care and control made in these proceedings. I therefore begin this part of my judgment by setting out the factual background against which these orders for interim care and control were made.

17 As I have mentioned, the wife left the matrimonial home with the children on 25 March 2008. On the very same day, the husband applied for an injunction restraining the wife from removing the children from the matrimonial home pending either the conclusion of these proceedings or an earlier agreement between the parties on arrangements for the children.[21] He

[21] SUM 4054/2008 filed on 25 March 2008.

followed that application two days later with another application seeking an order compelling the plaintiff to return the children to the matrimonial home and for both parties to have shared care and control of the children, to be exercised in the matrimonial home.[22]

18 On 27 March 2008, pending the hearing of both of his applications, the husband secured an order granting him interim access to the children every weekday from 10.00 am to 6.00 pm.[23]

19 The husband's two applications were heard together on 17 December 2008. The District Judge declined to make any of the orders which the husband sought, including an order for shared care and control. Instead, she gave the wife interim care and control. The District Judge did, however, extend the husband's interim access considerably as follows: (i) on weekdays from 10.00 am to 6.30 pm; (ii) overnight from Friday to Saturday on alternate weekends; (iii) on alternating public holidays from 10.00 am to 6.30 pm; and (iv) for half of the school holidays in June and December.[24] The wife appealed against this decision to a High Court judge in chambers, praying that the husband's interim access be restored to that permitted by the order of court dated 27 March 2008, *ie* only on weekdays and only from 10.00 am to 6.00 pm. The High Court judge left the District Judge's order largely unchanged, although he did shorten the husband's weekday access by half an hour to end at 6.00 pm instead of 6.30 pm.[25]

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22 SUM 4231/2008 filed on 27 March 2008.

23 ORC 4443/2008; Defendant's bundle of documents for submissions dated 4 February 2015 ("DBD") at page 2 to 3.

24 ORC 49/2009 dated 17 December 2008; DBD at page 6 to 7.

25 ORC 3524/2010; DBD at page 9 to 11.

20 On 9 February 2010, when the son returned after access with the husband, the wife discovered a bruise on the small of the son's back and scratches on the back of his neck.[26] The next day, 10 February 2010, the wife took the son to Kandang Kerbau Hospital ("KKH") for examination and treatment. She notified the husband. The husband and Ms X went to KKH on the same day. It is not clear whether their purpose in going there was to see the son or to confront the wife. In any event, a wholly unnecessary and unedifying confrontation ensued between the three adults at KKH.

21 On 11 February 2010, relying on the bruise found on the son and relying on her account of the confrontation with the husband and Ms X at KKH and the stress which she said it had caused her and the children, the wife applied for[27] and obtained *ex parte* an order suspending the husband's interim access to both children pending further investigations by KKH's medical social worker and the police.[28] In addition, the wife obtained *ex parte* an interim injunction restraining the husband and Ms X from harassing her in any manner and from coming within 400m of her.[29]

22 On 23 February 2010, the return date fixed on 11 February 2010, the wife's application for an interim injunction was fixed for an *inter partes* hearing together with the husband's application to set aside the *ex parte* interim injunction. In the meantime, the court declined to set aside or to vary the wife's *ex parte* interim injunction.[30] The court did, however, restore the

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26 Wife's affidavit filed on 11 February 2010 at para 5(i).

27 SUM 2424/2010 filed on 11 February 2010.

28 ORC 2278/2010; DBD at page 12 to 14.

29 DBD at page 14.

30 ORC 3230/2010 dated 23 February 2010; DBD at page 18 to 20.

husband's access to the daughter, albeit only for two hours on weekdays (from 10.00 am to 12.00 noon), on a supervised basis and at a neutral venue. The husband's access to the son remained suspended.

23 A number of incidents occurred over the next few months which led the wife to make police reports[31] alleging that the husband had breached the interim injunction by coming within 400m of her or had attempted to have access to the son, despite that access having been suspended since 10 February 2010. The wife also applied for a personal protection order. She eventually withdrew that application after reaching a settlement with the husband.[32]

24 On 16 September 2011, on an appeal by the husband against the decision of the District Court, Philip Pillai J disposed finally of the parties' applications and cross-applications relating to the 11 February 2010 interim injunction.

25 Pillai J's order starts with a clean slate, setting aside all previous orders for interim access. It then gives interim care and control to the wife and makes a detailed order for the husband to have extensive access to the children. In summary, Pillai J's order permits the husband to have access to both children: (i) every Monday, Wednesday and Friday from 3.15 pm to 6.15 pm; (ii) every Tuesday and Thursday from 3.15 pm to 8.00 pm (to permit the husband to have dinner with the children); (iii) on alternate public holidays from 10.00 am to 6.30 pm; (iv) on alternate one-day school holidays falling from Monday to Thursday from 10.00 am to 6.30 pm; (v) overnight on alternate weekends from 6.15 pm on Friday to 2.45 pm on Sunday; and (vi) for alternating halves of the

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31 DBD at page 21 to 31.

32 Wife's 4th AOM at para 120.

long school holidays in June and November/December.[33] The order even governs issues such as the husband's obligation to transport the children for their activities during his access, the mechanism by which the parents are to be able to take the children out of the jurisdiction and the wife's obligation to offer replacement access in the event of illness or hospitalisation. Pillai J's order remained in force, with only minor variations from time to time, up until the hearings before me.

26 Despite the comprehensive nature of Pillai J's order, it failed to put an end to the parties' disputes over access. The wife applied in 2013 to cut back the husband's access considerably.[34] The husband cross-applied seeking sole custody and sole care and control of the children with the wife to have supervised access only.[35] In 2014, the husband applied for an order that the daughter be examined by a court-appointed psychiatrist or psychologist to prepare a report to assist the court in making its decision on custody and access in relation to her.[36] All of these applications and cross-applications were stayed pending the final determination of the ancillary matters.[37]

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33 DBD at page 34 to 35.

34 SUM 6300/2013; DBD at page 37 to 42.

35 SUM 8719/2013; DBD at page 43 to 45.

36 SUM 8621/2014.

37 ORC 11542/2014 dated 30 June 2014; DBD at page 46 to 47.

27 Against this factual backdrop, it now falls to me to make the final arrangements for the children.

28 In considering my decision, I have kept in mind two key principles. Both of these are axiomatic but are nevertheless worth restating:

(a) The first is the welfare principle. In deciding arrangements for children, I must have regard to the welfare of the children as my first and paramount consideration, to be analysed on all the facts of the individual case: s 3 of the Guardianship of Infants Act (Cap 122, 1985 Rev Ed) and s 125(2) of the Women's Charter.

(b) The second is the principle of joint and enduring parental responsibility. The status of being a parent carries with it a complex and interlocking web of rights, duties, responsibilities and expectations which parents bear in relation to each other, in relation to the child and in relation to society at large. Parents remain subject to their parental duties, responsibilities and expectations throughout the entirety of their children's childhood. That is so despite any strain or breakdown which may take place over that period in the parents' relationship with each other. One aspect of this principle is embodied – at least for children born in wedlock – in s 46(1) of the Women's Charter. That section establishes that, from the date on which a marriage is solemnised, the husband and the wife are mutually bound to cooperate with each other in caring and providing for their children. Although s 46 frames this aspect as a responsibility which each spouse has to the other, they must equally have that responsibility as parents to their child and to society at large.

29 I begin by considering the issue of custody.

Custody

30 The parties are agreed on the principles of law governing my decision as to who is to have custody of the children. But they are diametrically opposed as to how those principles should be applied to the facts of this case. I approach this section of my judgment by summarising the principles which I must apply, summarising the parties' positions and then setting out my reasons for giving the parties joint custody.

Principles governing custody

31 In ancillary proceedings following the typical divorce, there are three possible orders which a court can make for the custody of a child of the marriage: (a) the court can make no order as to who is to have custody of the child: (b) the court can make an order giving both parents joint custody of the child; or (c) the court can make an order giving one parent sole custody of the child to the exclusion of the other. The leading case on the principles guiding the choice between these three alternatives is the decision of the Court of Appeal in *CX v CY (minor: custody and access)* [2005] 3 SLR(R) 690 ("*CX*"). From that case, I distil the following eight points.

32 First, the broad concept of custody comprises two categories of decision-making relating to a child's upbringing and welfare: (i) decision-making on day-to-day matters with short-term consequences; and (ii) decision-making on more significant matters with long-term consequences. An order for care and control allocates the former category of custodial decision-making. What is loosely referred to as an order for custody *simpliciter* allocates only the latter, residual category of custodial decision-making: *CX* at

[31]. In the remainder of this judgment, unless the context otherwise indicates, I shall use the word "custody" by itself to refer to this residual category of decision-making.

33 Second, the law of parenthood gives both parents joint custody of every child of a marriage even after divorce and even without a court order to that effect. Making no custody order and making a joint custody order upon divorce therefore have the same effect: *CX* at [18].

34 Third, the law of custody applies the welfare principle by recognising and supporting the twin concepts of joint parental responsibility and of life-long parental responsibility. This is because it is generally in the best interests of any child for that child to have both parents involved in his life for the entirety of his childhood, even after they divorce, rather than for that child to feel abandoned or to be left with the impression that one parent or the other no longer cares about his welfare: *CX* at [25] – [27].

35 Fourth, for that reason, and subject always to the welfare principle, an order for one parent to have sole custody is exceptional. In the usual case, a child's welfare is best promoted by making either no custody order or a joint custody order: *CX* at [24]. That is because both orders uphold the principle of joint and life-long parental responsibility and also signal to the child that both parents will continue to be involved in his life: *CX* at [27]. All else being equal, that signal is in the best interests of the child.

36 Fifth, the court should intervene in the parent-child relationship only when necessary. Thus, the principles set out above warrant the court declining to intervene in the parent-child relationship by making no custody order, for example, where there is little risk of future dispute between the parents over

the child's upbringing, where there is little risk that one parent will attempt to exclude the other from future decision-making about the child's upbringing, where there is a real risk that court-ordered custody will result in both parents drawing the child into their disputes over their custodial powers and where the court does not wish judicially to anoint one parent as the custodial winner and the other parent as the custodial loser: *CX* at [19]. These same principles warrant the court intervening in the parent-child relationship by making a joint custody order where, for example, the circumstances make it necessary to give both parents an express reminder "that the law expects both of them to co-operate to promote the child's best interest": *CX* at [28].

37 Sixth, the fear that the parties may not be able to cooperate after the divorce in making custody decisions, *ie* decisions on the more significant matters related to the child's upbringing with long-term consequences for the child, is not in itself a reason to make a sole custody order. Custody decisions, unlike care and control decisions, are fewer in number and are farther between in time. A court order requiring the parents to make custody decisions jointly after the divorce therefore does not increase the risk of future acrimony in the same way that an order requiring them to make care and control decisions jointly would: *CX* at [35].

38 Seventh, it is wrong in principle to infer that parents who otherwise share a genuine concern for their child's welfare will be unable to cooperate to promote his welfare after a divorce simply because they have been unable to cooperate to that end during the divorce. Allowance must be made for the fact that marital breakdown is, by its nature, highly stressful and that once the source of the stress ceases operate, the acrimony between the parties may subside over time. Acrimony between the parents should therefore not too

easily be taken as evidence that the welfare principle warrants an exceptional sole custody order. As the Court of Appeal said (at [36] – [37]):

> 36 In this day and age, we feel that the preferable position in the law of custody is that advocated by the father, *ie*, to preserve the concept of joint parental responsibility, even if the parties may harbour some acrimony towards each other. Often, [parties] rely on the acrimonious relationship of the parties to argue that joint custody will be detrimental to the welfare of the child. *However, they fail to appreciate the fact that some degree of acrimony is to be expected when parties are undergoing the stresses of a marital breakdown. As allegations of wrongdoings and breaches of fidelity can be hurtful, the time when the marriage breaks down may not be the best time to assess whether both parents can co-operate for the rest of the child's life. We believe that the fear that parties cannot co-operate may be overstated.* It is a quantum leap in logic to assume that the parties' inability to co-operate during the period of divorce or custody proceedings equates to an inability to agree on the future long-term interests of the child.
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> 37 To begin with, most custody cases arise over each parent's concern for his or her child's welfare. We agree with the judge's observation that the parties' relationship may be currently strained but there is room for hope that they will act in the best interests of the child in future. With the passage of time, emotions would have quietened down, the parties would have moved on with their respective lives and they should be able to make joint decisions objectively in the child's best interests. …
>
> [emphasis added]

39 Finally, as to when a sole custody order is warranted, the Court of Appeal in *CX* said this (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 … or where the relationship of the parties is such that co-operation is impossible even after avenues of mediation and counselling have been explored, and the lack of cooperation is harmful to the child. …

40 To the seventh point I have distilled from *CX* (see [38] above), I would add only that there is another reason to be wary of attaching too much

significance to ongoing acrimony between divorcing parents in deciding whether to award sole custody to one of them. Doing so would have the unintended consequence of giving the divorcing parents a perverse incentive to gain a tactical advantage by ratcheting up the acrimony in the run up to a custody decision. Any marriage, even a short one, endows each spouse with an intimate knowledge of the other spouse's trigger points. When the parties' relationship breaks down, it is all too easy for one spouse to use that knowledge to engage in ostensibly innocuous behaviour which is in fact carefully calculated to provoke the other spouse and then to present the retaliatory response to the provocation to the court as evidence of acrimony warranting excluding the retaliating spouse from custody.

The parties' submissions

41 I now summarise the parents' submissions.

The wife's submissions

The wife submits that the welfare principle dictates that she should have custody of the children because she knows the children's needs and desires far better than the husband and has consistently used that knowledge over the years to make decisions in the children's best interests free of extraneous considerations. In contrast, the husband should be deprived of custody because he has consistently acted to promote only his own interests, even when that is contrary to the children's welfare. He inevitably and intransigently opposes anything which she proposes merely for the sake either of vindicating what he perceives to be his parental rights or even simply to oppose her. This has created deadlock in joint decision-making about the children which has been positively detrimental to their welfare.[38] That deadlock and the ensuing

detriment to the children's welfare will continue unless she is permitted to make custody decisions alone after the divorce.

42 The wife gives the following examples to support her submissions:[39]

(a) The parties could not agree which kindergarten the daughter should attend. The wife wanted the daughter to attend Kindergarten A. The husband acquiesced in this and allowed the wife to put the daughter's name on the lengthy waiting list for Kindergarten A when the daughter was just one year old. That was in 2005, before the parties' relationship broke down. When the daughter turned three, in December 2007, nothing had been heard from Kindergarten A. The wife therefore enrolled her in Kindergarten B. In January 2009, Kindergarten A was finally able to offer the daughter a place. The wife proposed to accept the place. The husband insisted that the daughter remain in Kindergarten B even though he had never before objected to enrolling her in Kindergarten A and even though Kindergarten A was the more reputable kindergarten offering the daughter clear educational advantages. The wife had to apply for a court order to compel the husband to take the daughter to Kindergarten A during his weekday access under the order for interim care and control.

(b) The parties could not agree which primary school the daughter should attend. The wife wanted the daughter to enrol at School C, which the wife had herself attended and at which the daughter would have priority in enrolment. The husband insisted instead that the

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38 Wife's 4th AOM at para 104.

39 Plaintiff's written submissions dated 3 February 2015 at para 28 to 41.

daughter should enrol at School D at which she would have no priority. It took a hearing before Pillai J to break the deadlock. Pending the hearing, the husband even had his solicitors write to School C to warn them off enrolling the daughter until the parties had resolved their dispute. If School C had heeded the husband's warning, the daughter ran the risk of not being enrolled in any school.

(c) The parties could not agree which pre-school the son should attend. In November 2009, the husband proposed moving the son from Pre-School E, which he had been attending since March 2007, to Pre-School F, which was inappropriate for the son's special needs. The only apparent reason was because the husband's maid was habitually late in taking the son to Pre-School E.

(d) The parties could not agree which school the son should attend after completing pre-school. This resulted in the son attending no school at all at all for almost 18 months. This situation persisted even though the son's therapist had opined that being kept out of school was clearly contrary to the son's best interests. The wife wanted the son to attend School F, a privately-run special school which charged fees of $1,800 per month and which carried certain advantages for the son. The husband insisted that the son attend School G, a special school run by a voluntary welfare organisation which charged fees of $14 per month and which carried certain disadvantages for the son. The husband's preference for School G appeared to be solely because School F had failed to supply the husband information rather than the result of a belief that School G would advance the son's best interests. The wife eventually had to file an application for the court to decide whether the son should attend School F.

(e) There was a significant delay before that application was ready to be heard on the merits. While waiting for the hearing, a place became available at School F. The wife accepted the place and enrolled the son there. The husband's response was to file an urgent application asking the court to restrain the wife by injunction from taking the son to School F. He objected on the grounds that he had not been consulted on the decision. He objected even though the result of the injunction, if he had succeeded in securing it, would have been to keep the son out of school for more than two years, contrary to the son's best interests. The husband's application was dismissed.[40] When the wife's application for an order permitting the son to attend School F was ultimately heard, the court accepted her reasons and ordered that the son remain in School F subject to review.

(f) The parties had a dispute over who was to be the daughter's mathematics tutor. Mrs H had been tutoring the daughter at Tuition Centre J. When Mrs H left Tuition Centre J, the wife wanted to maintain continuity by having Mrs H tutor the daughter privately at Mrs H's home on Saturday mornings. But on the Saturdays when the husband took access with the daughter, he refused to take her for tuition with Mrs H. He attempted instead to arrange a different tutor for those days, even though it was not in the daughter's best interests to be tutored in the same subject by two different tutors on alternating Saturdays.

(g) In 2008, when the son was only two, ear wax accumulated in his ear canal. The husband wanted to have the wax removed under

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[40] ORC 13021/2014 dated 17 July 2014.

general anaesthetic. The wife was horrified at this suggestion and took the son instead to an ear specialist. He noted that the accumulation of ear wax was not affecting the son's hearing and therefore advised the mother to wait and see if the accumulation of ear wax would resolve itself over time. The ear specialist issued a written report opining that: "Given [the son's] William's Syndrome and multiple medical problems, the risk of undergoing … general anaesthesia is indeed real and high".[41]

(h) In 2010, when the daughter suffered frequent nose bleeds, the doctor consulted by the wife advised that the daughter reduce her intake of dairy products. The husband then began writing emails to the doctor questioning his advice.[42]

(i) The husband's misplaced desire to pursue his rights rather than the best interests of the children is exemplified by the belligerent attitude he has adopted towards the children's schools. He has, through his solicitors, demanded information about the children directly from the school rather than through the wife. He has even made complaints to the Ministry of Social and Family Development ("MSF") and National Council of Social Services about the son's pre-school, accusing them about unfair treatment for failing to provide the husband with communications from the school to the parents. When the husband asserted this right against the son's pre-school, it pleaded with his solicitors as follows: "… despite earlier communications, we continue to be inundated with legal letters requesting information that

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41 Wife's 4th AOM at para 116.

42 Wife's 4th AOM at para 117.

has already been communicated. … This takes our focus and resources from our primary role of educating the child. We urge you and your client to allow the school to focus on its primary role and not be drawn into answering legal letters".[43]

(j) The husband has even tried to hold the daughter's school responsible for preserving evidence for these proceedings. After learning that the daughter's school would destroy her counselling journal at the end of the term, his solicitors wrote a strongly-worded letter to the school to put them on notice that the counselling journal and any notes made in the course of the daughter's counselling were relevant to these proceedings and should be preserved. Further, the husband accused the daughter's school of giving the wife "aid in the psychological abuse of [the daughter]".[44] The daughter's school responded by informing the husband his actions "are not helpful in partnering the School" in the daughter's education.[45]

43 All this, the wife says, demonstrates that the only order for custody which is consistent with the welfare principle is an order giving her sole custody of the children. Only that order will preclude the future deadlock and the resulting detriment to the children's welfare which would otherwise be inevitable.

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[43] Report dated 12 January 2015 found in wife's core bundle (IV) for hearing on 4 May 2015 at page 25.

[44] Wife's 4th AOM at page 446.

[45] Wife's 4th AOM at page 447.

The husband's submissions

44 The husband submits that the welfare principle dictates that he should have custody of the children. He gives the following reasons:[46]

(a) He genuinely loves and cares for the children and has their best interests at heart. That is why, despite the various obstacles created by the wife and her best efforts to exclude him from the children's lives, he has fought when necessary for his right to see and care for the children and has remained actively involved in their lives, their education and matters relating to their health.

(b) Since 2007, he has been a stay-at-home parent. Therefore, unlike the wife who continues to work long hours as a private banker, he does not have to depend on maids to care for the children. In addition, he has extensive family support in his home from Ms X and from his own parents who live with him. As a result, the children are very happy and comfortable in his home.

(c) He has been the children's primary caregiver since 2008. As a result of the interim access order made that year, the children have spent most of their waking hours over the past eight years with him rather than with the wife, save for the period in 2010 when the wife had his access suspended without basis. He is also the parent who ferries the children to school, classes and therapy during the week as and when required.

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46 Husband's closing submissions dated 4 February 2015 for hearing on 6 February 2015 at para 31.

45 Further, he submits that the welfare principle dictates that the wife should be deprived of custody because of her consistently unilateral approach towards parenting. This approach has four aspects.

46 First, the wife refuses to share information about the children with the husband. For example:

(a) In 2010 and 2011, the wife instructed the son's general practitioner and therapist not to release information about the son to the father without the wife's consent.[47]

(b) The wife ceased informing the husband about the daughter's progress at school. When he wrote to the school to seek information on these matters, the school responded by saying that it would, in light of the wife having been awarded interim care and control, communicate only with the wife concerning the daughter's education.[48]

47 Second, the wife refuses to include the husband in decision-making on important matters relating to the children. For example:

(a) In 2008, the wife unilaterally withdrew the daughter from Kindergarten B and enrolled her in Kindergarten A.

(b) In 2010, the wife unilaterally enrolled the daughter in School C even though husband and wife had agreed to enrol the daughter in School D, which is closer to both their homes.

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47 Husband's Affidavit of Assets and Means filed on 30 June 2011 at para 86(a) and page 895.

48 DBD at page 75.

(c) In 2012, the wife made a unilateral decision that the daughter should seek psychiatric help from a Dr Geraldine Goh without consulting the husband and without even informing him.

(d) In 2014, knowing that the husband opposed enrolling the son in School F, and even though her own application for the court to rule on the issue had not yet been determined, the wife unilaterally enrolled the son in School F, without consulting or informing the husband. She simply presented it to him as a *fait accompli* on the evening before the son's first day of school.

48 Third, the wife restricts, reduces and denies the husband access to the children. For example:

(a) In February 2010, the wife secured court-ordered restrictions on the husband's access to the children through false allegations of abuse. Further, when the husband's access was later reinstated, the wife sought a condition that the access be supervised even though there was no basis whatsoever for imposing that condition.

(b) The wife has made false, or at the very least exaggerated, allegations that the children are fearful of the husband in an effort to reduce his access. The husband has observed no fear whatsoever on the children's part when they are with him.

49 Fourth, the wife is alienating the children from the husband. She has been engaging in emotional and psychological abuse of the daughter in an attempt to engender in the daughter a fear of the father which does not otherwise exist. He claims also that the wife uses the daughter to obtain information about him.[49]

50 This brief summary of both parties' submissions gives some flavour of the acrimony that has attended every step of these ancillary proceedings.

Order for joint custody

51 Having considered the parties' submissions, and for the reasons which follow, I find that this is not an exceptional case which warrants a sole custody order to promote the children's welfare within the analytical framework established by *CX*. In short, I accept each parent's submissions for why he or she should have custody while rejecting the other parent's submissions as to why the first parent should be deprived of custody. Four points are significant to me.

52 First, because custody is fundamentally about decision-making, each parent's capacity to make decisions to promote a child's welfare is a fundamental aspect of a custody decision. In this case, neither the father's nor the mother's decision-making ability is compromised such that he or she cannot be trusted to participate in decisions relating to the children's welfare (*cf. AVM v AWH* [2015] 4 SLR 1274 at [133]). Indeed, each parent has thus far demonstrated a well-developed decision-making capacity which they have applied successfully in their personal and professional lives and, before the breakdown of the marriage, for the children's welfare. I am therefore satisfied, as a threshold matter, that each parent has the fundamental capacity to make sound decisions to promote each child's welfare.

53 Second, I am satisfied that each parent genuinely loves each child. Neither parent alleges otherwise about the other parent. It is true that the wife

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[49] Husband's affidavit filed on 20 June 2013 at para 12 to 32.

suggests that the husband favours his children with Ms X over the children of the marriage. I do not accept that submission. His children with Ms X are younger and inevitably place more demands on his time when all five children are together. But that is no indication of a lack of true paternal love for the daughter and son.

54 Third, it is significant to me that the incidents which each parent focused on to argue that the other parent should be deprived of custody arose after their marriage had broken down and after these divorce proceedings had commenced. That suggests to me very strongly that it is the inevitable stress attendant upon any divorce which has caused the parties' deadlock in making decisions for the children's welfare and not any fundamental disability or disinclination to do so. I therefore cannot, within the analytical framework established by *CX* (see [42]), rule out the possibility that the parties will eventually be able to cooperate as responsible parents once the red mist of divorce has lifted.

55 Fourth, while it is true that the acrimonious relationship between the parties and their resulting failure to cooperate in making decisions for the children has caused difficulties for the children, I find that it has not now caused harm to the children, and that it is therefore no basis to infer that it is likely to cause harm to the children in the future. For example, it was obviously suboptimal that the son was kept out of school for 18 months while the parents' litigation over the choice of school was pending. But the evidence is that his welfare was safeguarded during this interruption in that he continued to attend private lessons and to receive private therapy.

56 Finally, acceding to either parent's submission to exclude the other parent from custody requires me to make a finding of fault. I would have to

ascertain which parent was responsible for both parents' failure to agree on the many contentious issues which have arisen in relation to the children's upbringing since these proceedings began. I find that an impossible task.

57 I start by considering the many disputed decisions in relation to the children's welfare and upbringing on which the parties have found themselves in deadlock. I have set out at [42] above why the wife says that her position on these areas was reasonable and the husband's position unreasonable. However, the husband has in response given reasons why his position was reasonable and the wife's unreasonable.

58 Thus, in relation to the dispute over the choice of the daughter's kindergarten, the husband says that both parents agreed to enrol the daughter in Kindergarten B as a compromise, and that it was the wife who was unreasonable in wanting to move the daughter out of Kindergarten B after she had been settled there for a year.[50] In relation to the dispute over the choice of the daughter's primary school, the husband's response is that in the spirit of compromise, he acceded to the wife's wish that the daughter attend one of two schools shortlisted by the wife, even though his own preferred choice was not on the shortlist. School D was on the wife's shortlist. School C was not.[51] The wife was therefore reneging on the parties' compromise by insisting on enrolling the daughter in School C. As far as the son's school is concerned, the husband has given on affidavit several reasons why he considers the wife's choice, School G, to be the school least suited out of the five schools in Singapore in the same category for a pupil with the son's special needs.[52] In

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50 Defendant's further submissions dated 27 April 2015 at para 11.

51 Defendant's further submissions dated 27 April 2015 at para 14 to 18.

52 Defendant's affidavit filed on 20 June 2013 at para 129.

relation to his unhappiness with Mrs H as the daughter's maths tutor, he points out that the daughter's results in mathematics declined under Mrs H's tutelage and he therefore considered it in the daughters' best interests to continue taking tuition at Tuition Centre J rather than to continue to receive tuition from Mrs H by private arrangement.[53]

59 There is a great deal of truth in the wife's submissions that the father's conduct in these instances shows an unfortunate focus on vindicating what he sees as his own parental rights or on restraining what he sees as the wife's overreach of her parental rights rather than on advancing the children's best interests. The reasons which I have set out above at [58] for the positions taken by the husband have more than a trace *of ex post facto* rationalisation about them. I also find that the husband's approach to third parties such as the children's schools has been unreasonable, belligerent and ultimately inexcusable.

60 On the other hand, I accept that there is some truth in the husband's assertion that the wife has acted in certain instances unilaterally, without consulting or informing the husband. However, I am satisfied that these are isolated instances arising from the wife's genuine desire to advance the children's best interests against the backdrop of an acrimonious divorce and are not, as the husband alleges, part of a larger pattern of unilateral parenting or of attempting to alienate the children from him.

61 If no custody order and a joint custody order were not options available to me, and I could make only an order for sole custody, either to the husband or to the wife, I would have unhesitatingly granted sole custody of the children

[53] Defendant's further submissions dated 27 April 2015 at para 31.

to the wife. But a sole custody order is not my only option. And on the authority of *CX* I find it impossible to say with the requisite certainty that the husband's behaviour has been so contrary to the welfare of the children that it is necessary to exclude him from custody in order to advance their welfare going forward.

62 In summary, I am satisfied that each parent has not only the capacity but also the inclination to make decisions which promote the welfare of each child. I am not satisfied that the deadlock which has arisen thus far has caused harm to the children. I cannot find that the deadlock is likely to continue once the parties have been removed from the crucible of divorce. And I find it impossible to be certain to the requisite degree that either parent is so predominantly at fault for the deadlock as to justify depriving that parent of custody.

63 The deadlock that has arisen in this case is nothing more than a temporary battle of wills. In a successful marriage, a battle of wills is avoided by trust. The spouses trust each other enough to divide up the labour of decision-making between them and to defer to each other on decisions taken within the other's sphere of responsibility. When a marriage breaks down, trust evaporates, the spouses reclaim the delegated decision-making power and deadlock is the result. What has happened in this case, while far from ideal, is also far from unusual. It does not indicate that an exceptional sole custody order in favour of either parent is necessary to advance the children's best interests.

Significance of the order for joint custody

64 Having concluded that it is in the best interests of the children for both parents to have custody, I am left with a choice between making no custody order and making a joint custody order. I consider that the acrimony between the parties which I have summarised above – while not warranting a sole custody order in favour of either parent – is an indication that their relationship is likely to remain sufficiently fraught for sufficiently long into the future that it is not safe to leave this case with no custody order whatsoever. I therefore consider it appropriate that I should make a joint custody order.

65 I take this opportunity to remind both husband and wife, through their respective counsel, of what should be obvious: they have a responsibility to cooperate to promote their children's best interests. I remind the wife that it is in the children's best interests for the husband to participate in long-term and significant decisions concerning the children's welfare and upbringing. To that end, she should be open and cooperative with the father (see *CX* at [20]) and should not make long-term decisions for the children unilaterally.

66 In the light of this reminder directed to the wife, I do not find it necessary to order the wife, as the husband seeks, to provide him information relating to the education of the children and to give him a right by court order to obtain information about the children directly from the source rather than through the wife. I do not believe that it is in the interests of both parties or of the children for me to regulate by court order yet another aspect of the parties' parenting. That would simply provide more fodder for repeated trips back to the court with complaints of breaches or of overreaching.

67 I now turn to the husband. I remind him that, if in future he finds himself opposed to the wife on a particular long-term decision for either child, he must bear in mind three points. First, for reasons I will come to (see [73] below), I have granted the wife care and control of the children. That will inevitably endow the wife with substantially greater insight than the husband can ever have about each child's ever-evolving needs and wants, hopes and fears. That insight will place the wife in a far better position than him to know what will best promote the children's welfare at any point in time, both in the short-term and for the long-term. Second, the wife undoubtedly loves the children at least as much as he does. He should learn once again to trust her not to conceive, let alone to advocate or to implement, a decision affecting either child which would be contrary to that child's best interests. Third, his status as a parent carries with it not only the rights to be exercised on which he has been so focused but also duties to be discharged, responsibilities to be met and expectations to live up to. He must accept that discharging his duties as a parent, meeting his responsibilities as a parent and living up to society's and his children's expectations of him as a parent will sometimes require him to have the wisdom *not* to insist on exercising a parental right vested in him.

68 My joint custody order is intended as a signal to both parents that they have a joint and enduring parental responsibility to advance their children's best interests. My joint custody order is also intended as a signal to both children that both parents love them and will remain involved in making long-term decisions for their lives. My joint custody order is not, however, intended as a signal to external parties. It should not be used by either parent to enjoin external parties to recognise that parent's "rights" over the children.

69 Both husband and wife must remember that custody is not an end in itself. Equally, a grant of custody is not a weapon to be used against the other parent, much less against third parties. Custody is simply a means to an end: that of promoting the welfare of the children.

70 If in the future, the husband and wife have different views on a particular custody decision affecting the children, I expect them to discuss and resolve their differences rationally, as intelligent and mature adults, focusing only on the children's interests and leaving aside their own interests and their current or historical grievances with the other. All too often in these proceedings, the parties have resorted to the court to break their deadlocks. This must not continue. It is inconceivable to me that two parents could ever be content to let a stranger make an important long-term decision for their child rather than to work out a solution for themselves. That stranger, no matter how skilled in the law or conscientious in its application, cannot decide for a child as parents can. In any event, it is not the court's function to be, in effect, the children's third parent.

Care and control

71 I now deal with the issue of care and control. As pointed out by the Court of Appeal in *CX* at [31] – [32], the person granted care and control thereby becomes the children's daily caregiver and is responsible for making short-term decisions for their day-to-day welfare. Like the grant of custody, the grant of care and control rests also on the welfare principle. In *ABW v ABV* [2014] 2 SLR 769, Judith Prakash J explained that the concept of "welfare" is not subjective, varying from judge to judge, but one which is underlined by principle and which requires the court to take into account all relevant factors. As Prakash J said at [23] – [24]:

> 23 The decision as to what is in the best interests of any particular child depends on the circumstances of the individual case and the individual child. However, this does not mean that that decision is a subjective one for the judge hearing the case. Rather, a number of relevant circumstances should be taken into account when arriving at a decision. The stability factor is but one such circumstance. Others include:
>
> (a) the need for both parents to have an involvement in the child's life;
>
> (b) which parent shows the greater concern for the child;
>
> (c) the maternal bond;
>
> (d) the child's wishes; and
>
> (e) the desirability of keeping siblings together.
>
> 24 The degree to which any one factor or the other is to be given pre-eminence is not fixed but depends entirely on the facts of each case.

72 At the outset, I should say that I have not for a moment considered separating the two siblings. The evidence is that they share a close bond[54] which neither party, to their credit, proposes jeopardising by separation. So the

[54] Dr Geraldine Goh's report dated 14 January 2011 at page 10/20, found at Plaintiff's bundle of documents, Tab 3 at page 55.

question for me to decide is which parent will best be able to promote the children's welfare by providing daily care to both children together and making day-to-day decisions for both children together.

73 Having considered all of the factors, I have decided that that parent is the wife. I say that for two reasons. First, I accept that the wife has been both children's primary caregiver since birth and is in the best position to be their daily caregiver going forward. Second, the husband has alienated the children's schools and therapists by his unreasonable and belligerent attitude. I now elaborate on each point.

Wife is primary caregiver

74 The wife submits that she has been the active parent in all aspects of the children's development and upbringing both during the marriage and after its breakdown. I accept that submission. She has taken care of all of the children's day-to-day needs from the physical to the emotional to the medical from the time of their birth to the present.[55] She has been the parent in primary contact with all of the children's teachers, therapists and doctors.[56] Most importantly, for present purposes, she took the lead in accepting, understanding and catering for the son's special needs from the moment he was diagnosed with Williams Syndrome in 2007. She immediately joined the Williams Syndrome Support Group in Singapore and took on a leadership role in it, thereby revitalising the then-dormant organisation.[57] She also arranged a

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55 Plaintiff's written submissions dated 3 February 2015 at para 70 to 73.

56 Wife's Affidavit of Assets and Means filed on 8 September 2011 ("Wife's 3rd AOM") at para 167.

57 Wife's affidavit dated 20 August 2013 at para 84; Plaintiff's written submissions dated 3 February 2015 at para 74.

trip for the entire family to the United States in August 2007 to consult a paediatrician at a leading American hospital who has extensive experience in dealing with Williams Syndrome.[58] While it is true that the husband did send some emails to doctors and therapists in the United States, I accept the wife's evidence that he did so, not of his own initiative, but at her request and on her behalf, on occasions when her own illness prevented her from doing so herself.[59]

75 On the other hand, the husband spends a great deal of time on travelling and leisure activities. This was true during the marriage and remains true after its breakdown. For example, surveillance by a private investigator engaged by the wife showed that he spent an average of only 7.3 days per month at home in the four months from November 2007 to February 2008.[60]

76 Further, I reject the husband's assertion that he gave up his employment in 2007 and has remained without employment since then in order to be a stay-at-home father to both children. I accept instead the wife's submission that the husband's true motive for leaving his high paying job in 2007 was to start his own hedge fund with a few partners[61] and that he has continued his self-described self-employed status to date in order to gain a tactical advantage in these proceedings. The most damning evidence against the husband is his own handwritten note written in 2007 which reads, "*if I get high $ job or should I do divorce b4 high paying job…best get divorce b4 get job*". I have no doubt that the husband has, since 2007, acted on his astute and

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58 Wife's 1st AOM at para 22f(v).

59 Plaintiff's written submissions dated 3 February 2015 at para 83.

60 Plaintiff's written submissions dated 3 February 2015 at para 84.

61 Plaintiff's written submissions dated 3 February 2015 at para 82.

cynical analysis that he would be better off in a divorce by deferring his re-employment until these proceedings are over. His lack of employment gives him a tactical advantage in custody, care and control, asset division and maintenance.

77 The wife's role as the children's primary caregiver means that she has the relationship with the children best-suited to exercise care and control. Dr Geraldine Goh ("Dr Goh"), a child and adolescent psychiatrist engaged by the mother, reported to the court in 2011 that the daughter "shares a very close bond with her mother." She reported also that the wife's relationship with the son is very close whereas the father's relationship with the son was merely "adequate":[62]

> **Assessment of Relationship of [the son] with Mother**
>
> [The son] is very close to his mother. They communicate not only by signing but pick up each other's non-verbal cues. The mother is very able to anticipate his needs and during his tantrums she is able to handle him fairly well, though sometimes at the expense of injury to herself. As with all maincare givers [*sic*], these infrequent meltdowns are not a reflection of their care but are part and parcel of caring for a child with specialised needs, and these often give us an indication of how adept the care giver is in managing it. In this aspect, his mother has been very patient and accepting of the difficulties.
>
> **Assessment of Relationship of [the son] with Father**
>
> [The son's] relationship with his father would be described as adequate at this point, given the nature of his disorders, his cognitive level and his emotional needs. As the father's parenting style is permissive, his interactions with his father is [*sic*] relaxed and happy. …

78 While Dr Goh's report accepts that the relationship between the children and the husband is a healthy one, it finds the relationship between the

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62 Wife's 4th AOM at page 433.

children and the wife to be closer. I therefore consider this a weighty factor in considering who should have care and control.

79 Although Dr Goh's report was prepared some years ago, there is nothing in the evidence before me to suggest that circumstances have changed materially since then. The husband attacks Dr Goh's report as being biased. He even lodged a complaint with the Singapore Medical Council against Dr Goh, accusing her of overcharging and bias in her report. The wife has deposed that that complaint was dismissed. The husband has not suggested that the wife is wrong. I give the husband's unfounded allegations against Dr Goh no weight.

80 I should point out, however, that my finding that the wife has been the active parent in aspects relating to the development of the children does not equate to a finding that, as she submits, she is the parent who is in fact more concerned with the development of the children. I accept that the husband is equally concerned as the wife for the children's welfare. My finding is simply that the husband and wife display and act on their concern for the children in different ways; and that the wife's way of doing so is more consistent with her exercising care and control over the children.

Husband has alienated children's schools and therapists

81 I also accept the wife's submission that she is on better terms with the children's schools and therapists than the husband. It is crucial that the parent who has care and control has a good and healthy rapport with the children's schools and therapists who provide the necessary support for the children's development. Given the son's special needs, this is especially important in relation to the son's schools and therapists.

82 The husband's unnecessarily belligerent approach has alienated both children's schools. His accusation that the daughter's primary school was aiding the mother "in the psychological abuse of [the daughter]" sparked a robust response from the school (see [42(i)] above). The son's school complained of being inundated by letters from the husband's solicitors requesting information. He has also made a complaint of unfair treatment to MSF about the son's school.

83 There is nothing wrong in itself with the husband making repeated complaints, and even with him expressing his complaints in intemperate language. But that is so only if there is a legitimate basis to justify each complaint and to justify the intemperate language used. The evidence does not bear out any justification for the husband's conduct. I find that his complaints were made not to promote the children's welfare but either to insist on his conception of his parental "rights" or simply out of pique. While I have not held the quality of this behaviour against the husband in my decision on custody, I do consider that it weighs heavily against him in my decision on care and control.

Preserve stability

84 I am also conscious that it is ordinarily in the children's best interests to preserve stability. The mother has had interim care and control of the children since 2011. The daughter was six and the son was five when the interim arrangement was put in place. They are now eleven and ten respectively. Care and control with the wife has been the *status quo* for the best part of their lives.

85 Although the effect of my award of care and control to the mother is to preserve the *status quo*, that has not been a significant factor in my decision. The interim arrangements gave the father very liberal access to the children: on weekdays, on weekends and overnight. Both parents have therefore played a significant part in the lives of the children since the wife left the matrimonial home. In these circumstances, I do not consider that maintaining stability for the children is a weighty factor in favour of granting the wife care and control.

Wife's submissions on injuries to son not accepted

86 The wife submits two additional factors as to why she should have care and control. In arriving at my decision to award her care and control, I have rejected both. I should make clear why.

87 First, the wife says that the son returned from access with the husband and his family on two occasions in 2009 and on one occasion in 2010 with bruises. Because the son does not bruise easily, the wife's view is that the bruises could have been deliberately inflicted. On that basis, she had the husband's access suspended and reported the matter through KKH to the child-protection authorities to investigate. She suggests, therefore, that the husband should not be granted care and control because there is a demonstrated risk of non-accidental physical harm to the son while he is with the husband. I reject that submission. There is absolutely no basis for the suggestion that the son's injuries were non-accidental.

88 Second, the wife says that both children feel neglected or secondary to their three step-siblings in the husband's new household. It is, of course, inevitable that the oldest two children in a household of five children will receive a little less attention than the younger three children. But I find that

these two children do not receive any less time or any less attention in the husband's current household simply by reason of their being the children of the husband's first marriage.

Conclusion on care and control

89 For all the foregoing reasons, I have decided that the wife should have care and control. The strong maternal bond between the wife and both children coupled with the mother's active and direct role in the children's upbringing and her better rapport with the children's schools and therapists lead me to the conclusion that the mother is best placed to be their daily caregiver and to make the associated daily short-term decisions.

Access

90 I now turn to access. In *BG v BF* [2007] 3 SLR(R) 233 ("*BG*"), the Court of Appeal explained "[t]he purpose of access is to allow the spouse not having care and control of the children to maintain regular contact with them" (at [11]). *BG* confirms also that the decision on access, like all other decisions relating to children, is ultimately driven by the welfare principle.

91 I have granted the husband what I consider to be liberal access to the children. It is true that the effect of my order is significantly to reduce the husband's access from that which he has enjoyed under the order for interim access which has been in place since 2011 (see [25] above). However, I have concluded that the welfare principle requires me to reduce the father's access for two reasons which are no reflection on the husband.

92 First, I accept the wife's submission that under the existing arrangement, the husband's access periods and the travelling time necessary to

make that degree of access possible consume the most part of the children's waking hours. The orders for interim access allow the husband access for several hours after school every weekday until either just before dinner time or just after dinner time. From Monday to Friday, therefore, the children are constantly on the go: from home to school to the father's house back to home. I do not consider it to be in the children's best interests for that arrangement to continue on a permanent basis. A nomadic lifestyle is disruptive for the children and cannot be in their best interests. They require stability in their daily lives, particularly as they get older. It is therefore important that the final orders for access allow them to spend sufficient time at home during the week to rest, to play and to do their school work.

93 Second, four years have passed since the orders for interim access were made. The daughter now has significantly more educational and extracurricular commitments, both in school and outside school. These commitments will only increase in the run-up to the all-important Primary School Leaving Examination which she will take at the end of 2016. The son was not in full-time school when the interim orders were made, but is now in full-time school. The children's increased school hours coupled with the additional time spent on extra-curricular activities greatly reduces the number of free waking hours they now have.

94 For both these reasons, it follows that the husband's access must be decreased in the best interests of the children. I have therefore ordered that the husband is to have access to the children on only one weekday evening, and even then allowing the children enough time to come home after school on that day and rest. In summary, the husband is to have access as follows:

(a) Every Wednesday from 5.00 pm to 7.30 pm, subject to (c), (d) and (e) below.

(b) Overnight access on alternative weekends from 5.00 pm on Friday to 2.30 pm on Sunday, subject to (c) and (e) below.

(c) In odd years, during the first half of the June and the November/December school holidays. In even years, during the second half of the June and the November/December school holidays.

(d) Alternate public holidays and one-day school holidays.

(e) In odd years, on the first day of the Lunar New Year from 10.00 am to 7.00 pm. In even years, on the eve of the Lunar New Year from 5.00 pm to 9.00 pm and on the second day of the Lunar New Year from 10.00 am to 6.00 pm.

(f) The husband may during his access, and the wife may when the husband does not have access, take the children out of jurisdiction upon seven days' advance written notice to the other party.

95 I am satisfied that the orders I have made will allow the husband to continue to maintain his parental bond with the children while allowing the children sufficient time to establish a sense of rootedness and stability in their home.

96 Having set out my reasons for my decision on the arrangements for the children, I turn to the other significant matter, the division of the matrimonial property.

Division of matrimonial assets

The approach to division

97 In *ANJ v ANK* [2015] 4 SLR 1043 ("*ANJ*"), the Court of Appeal cautioned against the "uplift" methodology of dividing matrimonial assets because it can both undervalue and overvalue non-financial contributions. Both outcomes are undesirable in that both by definition result in a division of matrimonial assets which is neither just nor equitable.

98 The Court of Appeal has set out the following structured four-step approach (at [22] to [29]; see also *Twiss, Christopher James Hans v Twiss, Yvonne Prendergast* [2015] SGCA 52 at [17]):

> (a) First, derive a ratio which represents the relationship between the direct financial contributions of each party towards the acquisition or improvement of matrimonial assets.
>
> (b) Next, derive a second ratio which represents the relationship between the non-financial and indirect financial contributions of each party towards the welfare of the family. This is necessarily a matter of impression and judgment to be approached in broad strokes.
>
> (c) Then, average the two ratios to derive each party's overall contribution to the family. This average forms the basis for the division of matrimonial assets.
>
> (d) Finally, make any adjustments which are necessary to arrive at a just and equitable division of the matrimonial assets.

I must of course adopt and apply this approach.

99 Before I turn to the specific matrimonial assets to be divided, I deal with two preliminary points: (a) the appropriate method for arriving at the parties' direct financial contributions to the matrimonial assets; and (b) whether an inference should be drawn adverse to either party that he or she has failed to give full and frank disclosure of his or her assets to the court.

Method to be adopted

100 Both parties submit that I should use the classification method instead of the global assessment method. In *NK v NL* [2007] 3 SLR(R) 743 ("*NK*"), the Court of Appeal explained the difference between the two methods (at [30] – [33]). In the global assessment method, the court makes an overall assessment of the parties' relative direct and indirect contributions to the marriage and then applies that assessment to the entire pool of matrimonial assets. By its very nature, the global assessment method takes into account the parties' indirect contributions only once (at [21]). That assessment must then be reflected consistently across all classes of assets (*AYQ v AYR and another matter* [2013] 1 SLR 476 at [23]). In the classification method, the court divides the matrimonial assets into classes and conducts a separate analysis of the parties' direct and indirect contributions to each asset class. This method is "more appropriate where there are multiple asset classes, and where each party has made different contributions" to each asset class (at [35]).

101 As *NK* makes clear (at [33]), neither method is inherently superior to the other. Both methods are entirely consistent with the legislative framework provided by s 112 of the Women's Charter. They are simply different arithmetical means by which to achieve the same statutory end: dividing the matrimonial assets in a just and equitable manner. Thus the Court of Appeal

acknowledged in *NK* (at [35]) that either method would be likely to achieve the same result in the vast majority of cases.

102 There is nothing in this case which leads me to conclude that, to use the words of the Court of Appeal in *NK* (at [35]), either one of the two methods would be "more principled and conducive to a fair and equitable division". This case is, therefore, one of the vast majority of cases in which both methods would achieve a just and equitable division of the matrimonial property.

103 I consider the global assessment method to be appropriate to the facts of this case. I accept what Woo Bih Li J said in *YG v YH* [2008] SGHC 166 ("*YG*") (at [32]):

> In my view, the global assessment methodology is preferable in the present case. It is in close keeping with the court's broad brush approach as well as reluctance to engage in minute scrutiny of the conduct and contributions of both spouses. It allows for the fact that when parties to a marriage contribute to the acquisition of assets, they usually do so in good faith without regard to the question of division or each party's share in each asset acquired. For instance, a wife may pay less for the matrimonial home on the understanding that she will pay more for the family car, but it would usually be the case that both parties would not have considered whether she should then have a smaller share in the matrimonial home or a larger share in the family car.

In the present case, the parties are of roughly equal financial standing, both in terms of their net worth and in terms of their ability to generate income. A marriage is no less an economic union than any other type of union. Each spouse was capable of making equal direct contributions to each of the matrimonial assets. Further, there is no suggestion that either spouse has made unequal indirect contributions to any particular matrimonial asset.

104 The fact that there are different classes of assets, in itself, is to my mind not a sufficient reason to mandate the classification method. The fact that the pool of matrimonial assets is large is also not a factor against using the global assessment method. For example, this method was used in *Yeo Chong Lin v Tay Ang Choo Nancy and another appeal* [2011] 2 SLR 1157 ("*Nancy Tay*") where the total value of the matrimonial assets was $62.7m (at [62]).

105 In these circumstances, it appears to me that it is entirely appropriate to consider the pool of matrimonial assets globally.

Adverse inferences

106 Each party invites me to infer that the other party is concealing matrimonial assets falling within specific asset classes and to redress the prejudice caused by the concealment by augmenting the first party's share of the matrimonial assets in the affected class. This is, in fact, one of the reasons given by the parties for advocating the classification methodology. For reasons I will come to, I have declined to draw any adverse inference against either party. But for that aspect of my decision, I may well have been inclined to adopt the classification methodology so as to confine the consequences of the adverse inference to the relevant class of assets.

107 A party who asserts that the other party has failed to disclose matrimonial assets bears the legal burden of proof on that assertion. In order to cast even a tactical burden on the other party in respect of that asset, the first party must at least be able to: (a) present a substratum of evidence that establishes a *prima facie* case of concealment by the other party; and (b) show that the other party has particular access to the information he is alleged to be hiding, even if that is shown only in the sense that that information is

peculiarly within his knowledge: *Koh Bee Choo v Choo Chai Huah* [2007] SGCA 21 at [28]; *Chan Tin Sun v Fong Quay Sim* [2015] 2 SLR 195 at [62].

108 I turn to each party's submissions on why an adverse inference should be drawn against the other party. The submissions on both sides are lengthy. I will therefore highlight only the key points of the parties' submissions.

Wife's submissions

109 The wife advances three reasons why I should draw an adverse inference against the husband: (a) the husband has been evasive about his assets and means and has failed to discharge his disclosure obligations; (b) the husband hides assets through his mother; and (c) the husband's *modus operandi* is to focus on the wife's assets to enlarge the matrimonial pool while suppressing his own considerable assets.

The husband is evasive about his assets and means

110 I have accepted that the husband left his high paying job in 2007 to start another hedge fund with a few partners[63] and that he has remained without employment to date purely to gain a tactical advantage in these proceedings (see [76] above). The wife submits that the tactical advantage which the husband has gained in the division of the matrimonial assets is that he has been able since 2007 to earn an income without having to account for it. To support her submission that the husband must be earning an income, the wife points to the fact that he continues to incur and discharge substantial expenses every month, including credit card debt, while apparently having no source of funds from which to do so. For example, in April 2008, the

63 Plaintiff's written submissions dated 3 February 2015 at para 82.

husband's personal and household expenses were $34,661.08.[64] The husband's monthly credit card bills from 2009 to 2011 ranged from $6,600 to $42,100.[65] The only inference which can be drawn, she says, is that he is now concealing the truth about the income he has been earning since 2007.

111 Moreover, the wife claims that the husband has been deliberately withholding information throughout the course of the proceedings. After successfully obtaining an order from the court that the husband state his monthly returns from trading and investing his own funds, the wife was still not able to tell how much the husband makes per month because the information was presented in a piecemeal fashion with tables having little or no explanation.

112 The wife argues that the disclosure given by the husband is also six years out of date. In his latest affidavit of assets and means,[66] the husband has not updated his current assets and means. Instead he has chosen to devote extensive sections of his own affidavit to deal with the wife's alleged non-disclosure.

The husband hides assets through his mother

113 The wife contends that the husband hides much of his assets and investments through his mother. She points to evidence that, over the years, his mother has transferred a total of approximately $6.7m to the husband while he has transferred approximately $3.7m to his mother.[67] The husband explains

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64 Husband's 1st AOM at para 43.

65 Schedule 5 of Plaintiff's written submissions dated 3 February 2015.

66 Husband's Affidavit of Assets and Means filed on 8 August 2014 ("Husband's 4th AOM").

these transactions as loans between mother and son. According to the wife, there is no reason for mother and son to be making repeated loans to each other in this fashion. The husband is a self-made man of means while his mother is not well-off by any means. In light of this, the wife submits that these transfers back and forth are not in truth loans: the husband is simply using his mother's name and accounts to hide his funds. Furthermore, the wife points to instances in the past where the husband has used his mother's name to avoid tax either by putting his own investments in her name to mitigate his liability to capital gains tax or by transferring his income to her to mitigate his liability to income tax.

The husband's *modus operandi*

114 Finally, the wife submits that the husband nitpicks at the wife's assets and means with the intention of harassing and oppressing her. He has raised baseless allegations that she has fabricated bank statements. He alleges that the wife is indebted to him as a result of a series of money transfers between husband and wife from 2003 to 2007. He lays claim to a number of assets held by the wife which cannot, on any reasonable view, be matrimonial assets. All this shows that the husband's *modus operandi* in these proceedings is misdirection: he seeks to shift the court's focus from his own concealment of assets by making multiple baseless allegations that the wife is concealing assets.

115 As a result of the foregoing, the wife invites me to draw an adverse inference against the husband and to deprive him of the benefit of his

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67 Plaintiff's written submissions dated 3 February 2015 at para 220.

concealment by giving her an uplift of 15% in dividing the known matrimonial assets.

Husband's submissions

116 The husband submits that, in truth, it is the wife who is concealing matrimonial assets. The husband provides as examples the failure of the wife to disclose the following:

(a) Her beneficial interest in a bank account held with Citibank and a share-trading account with an online share broker held in the name of her sister-in-law.

(b) Her rental income from a property in Swiss View.

(c) Her account with HSBC in Perth.

The husband claims that the wife disclosed these assets only when he raised these matters in his second affidavit of assets and means. This, he says, demonstrates her evasiveness when it comes to disclosing assets for the purpose of division.

117 In addition, the husband claims that the wife has failed, throughout these proceedings, to give a full and honest account of the following:

(a) A property owned by her but registered in the name of her mother and her sister, for which she receives a monthly rental income of $7,000 to $8,000. The husband had to obtain a court order to compel the wife to disclose the particulars of this property. She has yet to comply with the court order, taking the position that she is not aware of

the property's address because it is not the wife's but was instead purchased by her mother as a gift for her sister.

(b) Her ownership of a company known as Skyline Coast Ltd. The husband points to various transfers of funds from the wife to that company. The husband also avers that the wife has not provided any documentary evidence to prove, as she asserts, that the company belongs to her mother.

(c) Her bank statements, in particular the statements from DBS Vickers and Merrill Lynch. The husband claims that the wife has not produced monthly statements of account in respect of the cash balances or cash transactions with DBS Vickers and that her various explanations in relation to the failure to disclose them (*eg* that the documents are not vital or that there were no statements generated due to inactivity) are flawed and should not be believed. In respect of her account with Merrill Lynch, the husband claims that the wife is in breach of a court order requiring her to disclose particulars of the account including monthly statements. The husband avers that no original statements have been produced for inspection and the statements were redacted without informing the husband. He alleges that there is reason to believe that the statements have been doctored because of the differing fonts used in the statements.

118 As a result of the wife's failure to disclose matrimonial assets, the husband submits that an adverse inference should be drawn against her in dividing the matrimonial assets.

My decision

119 I decline to draw an adverse inference against either party in this case. To my mind, any adverse inference I can draw against one party would be met and neutralised by an adverse inference against the other party. Both the wife and husband have demonstrated a substratum of evidence that establishes a *prima facie* case against the other that there are some assets which have not been disclosed to the court. It also cannot be denied that each party has particular access to the information which the other alleges has been hidden. If I accept one party's invitation to draw an adverse inference against the other, I would have to accept both parties' invitations to do so. Drawing adverse inferences against both sides would not advance the final aim of arriving at a just and equitable division of the matrimonial assets.

120 In any event, even if I were to draw an adverse inference against only the husband, I do not consider applying a flat 15% uplift on the affected asset class to be a satisfactory basis on which to quantify the value of that adverse inference. To the extent that the wife is unable to point to any specific asset with a specific value which the husband has concealed, applying a 15% uplift to the affected asset class is arbitrary and would be neither just nor equitable. To the extent that the wife is able to point to a specific asset with a specific value which the wife asserts the husband is falsely withdrawing from the pool of matrimonial assets, I will consider separately in my analysis below whether that asset is in truth a matrimonial asset.

121 In the circumstances, therefore, I have decided not to draw an adverse inference against either party for the benefit of the other.

Exclusion of sale proceeds from the Ardmore property

122 Before assessing and dividing the pool of matrimonial assets, I address a specific matrimonial asset which both parties have agreed should be outside the pool. In 2011, the parties agreed to sell a jointly-owned property (which I shall refer to as "the Ardmore property") and to divide the net proceeds of sale comprising $5.618m equally between them. It is common ground that the Ardmore property is a matrimonial asset. It is also common ground that the equal division of that asset is the just and equitable division of it, without going into a consideration of each party's direct or indirect contributions, whether to the Ardmore property specifically or to the marriage generally.

123 The parties' agreement on that issue is not, of course, determinative: *NK* at [40]. But both parties before me are financially sophisticated and shrewd. Further, they reached their agreement against the background of these proceedings and with the benefit of legal advice. I therefore accept that an equal division of the Ardmore property is the just and equitable division. In those circumstances, I decline to exercise my power to divide this particular matrimonial asset (see *Oh Choon v Lee Siew Lin* [2014] 1 SLR 629 ("*Oh Choon*") at [15]; *Ong Boon Huat Samuel v Chan Mei Lan Kristine* ("*Ong Boon Huat*") [2007] 2 SLR(R) 729 at [25]).

124 The parties are therefore at liberty to retain their agreed share of the net proceeds of sale of the Ardmore property. This asset will be left out of account in assessing the pool of matrimonial assets.

The matrimonial assets

125 I now assess the pool of matrimonial assets which falls to be divided. I will deal first with real property before turning to the other assets.

Real property

126 In the course of submissions, the husband confirmed through counsel that he is not pursuing his claim that the following properties are matrimonial assets:

(a) A property which the wife acquired before the marriage;

(b) A property which the wife acquired using her share of the net proceeds of sale of the Ardmore property after interim judgment in these proceedings was made final; and

(c) A property acquired in 1993 and which is not, in any event, owned by the wife.

The husband also concedes that he does not have sufficient basis to argue that another property jointly owned by the wife's mother and sister is a matrimonial asset. In my view, the husband's concession in relation to these four properties is no concession at all. His claim that these properties were matrimonial properties should not have been advanced and would have failed.

127 The parties agree that the following properties are matrimonial assets:

(a) the matrimonial home; and

(b) the property now occupied by the wife and children.

128 The parties dispute whether the following properties are matrimonial assets:

(a) two properties in Hillcrest owned by the wife;

(b) a property in Gallop owned jointly by the wife and her sister; and

(c) a property in Cairnhill owned jointly by the husband and his mother.

This Cairnhill property has been sold for a profit of $981,297 and the net proceeds of its sale are now held in an escrow account pending the outcome of these proceedings.

129 I shall first determine which of the disputed assets are matrimonial assets before turning to the valuation of these assets.

The disputed properties

THE TWO HILLCREST PROPERTIES

130 I find that the two Hillcrest properties are matrimonial assets. The wife signed the options to purchase the two Hillcrest properties in or around September 2007, shortly before her solicitors sent a letter to the husband seeking a divorce. She completed the purchase of the Hillcrest properties in September 2009, after interim judgment was granted but before it was made final.

131 The wife argues that the reasoning in *Ong Boon Huat* should be applied and that I should exercise my discretion to exclude the two Hillcrest properties from division even though they are "technically" matrimonial assets given that they were acquired before final judgment was granted (see *Nancy Tay* at [40] where the operative date used was the date on which the decree *nisi* was granted). I make two points on this issue.

132 First, the present case can be distinguished from *Ong Boon Huat*, which had an unusual set of facts. The wife in *Ong Boon Huat* wholly disassociated herself from the purchase of the property and insisted that the husband should bear the entire risk of the investment. In the present case, there is no evidence that the parties shared the understanding that only the wife was to be solely responsible for the risk in acquiring the two Hillcrest properties. Importantly, it has not been shown that the husband disassociated himself from the properties. Thus, I do not think that the reasoning in *Ong Boon Huat* applies to this case. Although I accept that I have the discretion to decline to exercise the power of division over a particular matrimonial asset (see [123] above), I will not do so in relation to the two Hillcrest properties.

133 Second, I note that *Ong Boon Huat* pre-dates cases such as the authoritative Court of Appeal case of *Nancy Tay* which held that "during the marriage" need not mean up until the time of final judgment (*Nancy Tay* at [32] – [36]). This in turn raises the question of what is the operative date which this court should adopt to determine whether the assets, and specifically the two Hillcrest properties, constitute a matrimonial asset. On this issue, the Court of Appeal recognised in *Nancy Tay* that there is no fixed operative date and the key consideration is that a just and equitable result be achieved (at [39]). It is also open to the court to apply different operative dates for different assets if the circumstances so warrant (*Nancy Tay* at [36]).

134 The parties in this case agree that the operative date for determining the pool of matrimonial assets should be the date on which the interim judgment was granted (*ie*, 30 January 2009). I am independently of the same view. The question then is whether I should apply a different operative date

for the two Hillcrest properties in order to exclude them from the pool of matrimonial assets.

135 I do not consider it appropriate or necessary to apply a different operative date to the two Hillcrest properties simply because they were acquired shortly before the wife's solicitors sent the letter foreshadowing divorce. This is especially so considering that it is not uncommon for properties to be regarded as matrimonial assets even when they are acquired after the commencement of divorce proceedings.

THE GALLOP PROPERTY

136 I find that the Gallop property is not a matrimonial asset. I accept the wife's submission that this property was a gift from her mother to her and her sister. Importantly, the property was gifted in 1999, four years before the marriage. I accept also that the property is financed by the rental proceeds from the property itself or by the wife's mother. I note that the wife's mother is the guarantor of the loan for this property and that the bank statements for the joint account, though in the wife and her sister's names, are sent to their mother's residential address. Further, the Gallop Road property was never substantially improved by either party during the marriage. It therefore falls outside of the definition of a matrimonial asset.

THE CAIRNHILL PROPERTY

137 I find that the Cairnhill property is a matrimonial asset. This property was acquired in November 2006 in the name of the husband and his mother. I accept the wife's submission that the husband's mother made no payment towards the acquisition of the property and therefore holds only the bare legal title to the property with no beneficial interest in it.

CONCLUSION ON THE PROPERTIES

138 To summarise, I have found that the following properties are matrimonial assets: the matrimonial home, the property now occupied by the wife and children, the two Hillcrest properties and the Cairnhill property.

139 I move now to consider the value of these properties.

Value of the properties

140 The parties are in broad agreement that jointly-owned assets should generally be valued as at the date of the ancillary hearing while solely-owned assets should be valued as at the date of interim judgment (*Anthony Patrick Nathan v Chan Siew Chin* [2011] 4 SLR 1121 at [23] and [26]). As is typical in these matters, I do not have a valuation of each asset precisely on the operative date. I am therefore constrained to use the values available in the evidence before me which are as close to the operative date as possible. In this regard, I observe that the value of the matrimonial home has increased more than threefold, from $2.92m in late 2003 to $9.37m as at June 2014 (which is the most up to date valuation in the evidence). The following table shows the net value of the real properties.

Property	**Net Value**
Matrimonial home (jointly owned)	Approximately $7.739m (as of June 2014 and after deducting the outstanding loan of $1.63m)[68]

[68] Wife's 4th AOM at para 20.

Property now occupied by wife and children (held as tenants in common)	Approximately $3.18m (as of July 2014)
Cairnhill (owned by the husband and his mother as his nominee, *ie* solely owned by the husband beneficially)	$981,297 (sale proceeds in 2009)
The two Hillcrest properties (solely owned by the wife)	Approximately $1.92m (as at 7 April 2009)[69]
Total net value of real property	**Approximately $13.82m**

Remaining matrimonial assets

141 The remaining matrimonial assets fall into three categories: (a) assets in joint names; (b) assets in the wife's name; and (c) assets in the husband's name. Taking a broad brush approach, I shall leave out of account assets which have no value or which have only negligible value relative to the pool of assets. Again, I consider the pool as at the date of interim judgment, and I use the date of the ancillary hearing as the operative date for valuing jointly-owned assets and date of interim judgment as the operative date for valuing solely-owned assets.

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[69] Wife's 1st AOM page 13 to 15.

Remaining matrimonial assets in joint names

142 The following table shows the net value of remaining matrimonial assets in joint names:

Property	**Net Value**
DBS Account	$7,578.72 (as of 30 June 2014)
Marriott Vacation Club	$31,430.91
Total Net Value	**$39,009.63**

Remaining matrimonial assets in wife's name

143 The following table shows the net value of the remaining matrimonial assets in the wife's name:

Type	**Property**	**Net Value**
CPF	CPF accounts	$9,550.92 $34,500 $60,820.14 (as at 28 February 2009)
Club Memberships	American Club	$110,000 (as at 2014)
	Singapore Island Country Club	$195,000 (as at 2014)

	Tanjong Puteri Golf & Country Club, Johor	$1,245 (as at 2014)
Cars (purchased after she left matrimonial home but before interim judgment)	Toyota Estima	$72,958 (as at February 2009)
	Mercedes Benz S350L	$191,933 (as at April 2009)
Bank Accounts	Bank of America	$17,925 (as at 19 June 2014)
	HSBC HK	$4,524.10 (as at December 2010)
	Malayan Berhad Banking	$4,058 (as at October 2010)
	Citibank (held with sister-in-law)	50% of $5,280.09 = $2,640 (as at November 2010)
	UOB (account was closed on 19 January 2012)	$18,078.38 (as at 28 February 2009)

	POSB	$713.97 (as at 28 February 2009)
	OCBC (held together with mother)	50% of $3,930.27 = $1,965 (as at 28 February 2009)
Insurance Policies	AIA	$37,664 (surrender value as of February 2009)
	Total net value	**$763,575.51**

144 I should mention that I find that the shares held by the wife are not matrimonial assets. The husband has adduced no evidence to rebut the wife's evidence that her mother made a gift of these shares to the wife before the marriage and that the parties did nothing during the marriage substantially to improve this asset.

Remaining matrimonial assets in husband's name

145 The following table shows the remaining matrimonial assets in the husband's name:

	Property	**Net Value**
CPF	CPF accounts	$33,757.79 $10,244.34

		$11,059.44 (as at 24 February 2009)
Club Memberships	American Club	20,000 (as of April 2009)
	Marriott Vacation Club, Phuket	$25,150
Cars	Toyota Estima	$60,000 (as at April 2009)
	BMW 630	$150,000 (as at April 2009)
Bank Accounts	HSBC 611	HK$12.43 (as at 20 January 2009) (I will exclude this from the calculations given the low value)
	HSBC 152	$35,993.58 (as at 7 February 2009)
	HSBC 157	US$291.15 (as at 7 February 2009) (Given the relatively low value, I will take

		it as being about $350)
	DBS 109	$500.67 (as at 31 January 2009)
	OCBC	$998 (as at January 2009)
	DBS 001	$8,477.12 (as at 2009)
Insurance policies	AIA	$882 (as at April 2009)[70]
Shares (EFG Bank)	Hikari	$76,784 (as at 30 January 2009)
	Cash Value	US$339,450 (as at 30 November 2008) (I will use the figure of $480,253.86 applying an exchange rate of $1.4148)
Shares (Schwab HK)	AMD AMKR	US$26,280 US$162,400

[70] Husband's 1st AOM.

	BRCD LVLT OPWW PALM SANM STAT Total:	US$64,389 US$17,769 US$6,643 US$146,497 US$17,160 US$106,440 US$547,578 which is $796,452.20 applying an exchange rate of $1.4545
Philips Futures Pte Ltd		$202,677.62 (as at January 2009)
Compu-chart Adviser Limited, HK		HK$257,430 (as at January 2009) I will take this as $48,293 applying an exchange rate of 0.1876
	Total net value	**Approximately $1.961m**

Total net value of the matrimonial assets

146 The total net value of the pool of matrimonial assets is approximately $16,582,575.50 (being the sum of $13.82m, $39,000, $763,575.21 and

$1.96m). I will round the figure up and treat the total pool of matrimonial assets at $16.583m.

Just and equitable distribution

147 I now adopt the approach outlined in *ANJ* (outlined at [98] above) to determine a just and equitable distribution of matrimonial assets. I start by ascertaining the ratio of the parties' direct contributions to the matrimonial assets.

Ratio of direct contribution

148 Direct contributions are contributions towards the acquisition or the improvement of the matrimonial assets (see *ANJ* at [22]). The parties had a joint account at HSBC until March 2008 (therefore not reflected above as part of the pool of matrimonial assets).[71] A substantial amount of the payments towards the acquisition of the real properties came from this joint account. Having heard the evidence of the parties, I am satisfied that the monies in the joint account were contributed mostly, if not solely, by the husband. The wife's evidence shows that she treated the funds in this account as belonging to the husband and not as joint property. Thus, she treated her transfers of her own funds into this account as repayment of certain debts which she owed to the husband.[72] Further, when the wife was accused of wrongfully withdrawing $80,000 from this joint account, she justified it as having been taken as the husband's repayment of certain debts which he owed her.[73] To my mind, the wife's conduct is implicit acceptance that the money in this joint account was

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71 Wife's 4th AOM at para 20 and Plaintiff's written submissions at para 274.

72 Wife's 4th AOM at para 152.

73 Wife's 3rd AOM at para 44.

attributable solely to the husband. Therefore, I attribute the money from this joint account which was used to pay for the properties solely to the husband.

149 I find that the husband contributed almost 100% of the purchase price of the matrimonial home and precisely 100% of the purchase price of the Cairnhill property. The wife financed the Hillcrest properties entirely by herself. As for the property now occupied by the wife and children, the parties agree that they paid the down payment and the monthly mortgage instalments in equal shares. The wife, however, submits that she paid in addition the sum of $115,979.27 for renovations. On this issue, however, I accept the husband's submission that most of the documents produced by the wife as evidence of this contribution cannot be said to be for renovation works. Most of the documents produced by the wife evidence payments made for furniture, curtains and electronic items. These are not, therefore, direct contributions to the acquisition or improvement of this matrimonial asset.[74] I therefore take the parties' direct contribution to this property as being virtually equal.

150 The direct contributions of the parties to the properties are as follows:

Property	**Wife's direct contribution**	**Husband's direct contribution**
Matrimonial home	Some parts of the renovations but not a substantial sum	Approximately $1.2m + $560,325.07 for renovations

[74] Wife's 2nd AOM at page 262 to 309.

Property now occupied by wife and children	$502,909.40	$502,909.40
Cairnhill	Nil	$557,000
The two Hillcrest properties	$1.458m	Nil
Total direct contribution to the real properties	**Approximately $1.96m**	**Approximately $2.83m**

151 I move on to consider the parties' direct contribution to the remaining matrimonial assets. I start with the remaining solely-owned matrimonial assets. The evidence before me does not show how much each party actually contributed to each of these remaining assets at the time of acquisition. The evidence merely shows the *value* of these remaining assets as at the operative dates. Taking a broad brush approach, it appears to me that this value is a reasonable proxy for the parties' actual direct contributions at the time of acquisition. None of the remaining matrimonial assets are likely to have increased in value from the time of acquisition in the same way as the matrimonial real property has, whether in relative or in absolute terms. I therefore credit the parties with the full value on the operative date of each of the remaining assets which they hold in their own name as a best available proxy for their direct historical contribution towards the acquisition of that asset.

152 That leaves only the remaining jointly-held matrimonial assets. The value of these assets is only $39,000. This is not a material sum in the larger scheme of things. I therefore attribute the value of this asset equally to each party as his and her direct contribution.

153 The result is that the parties' direct contributions to all of the matrimonial assets, including the real assets, are as follows:

Matrimonial Assets	**Wife's direct contribution**	**Husband's direct contribution**
Jointly owned	$19,500	$19,500
In their own names	$763,575.51	$1.96m
Properties (as calculated in the previous table)	Approximately $1.96m	Approximately $2.83m
Total direct contribution to all the assets	Approximately $2.743m	Approximately $4.809m
Percentage of direct contribution	**36.3%**	**63.7%**

154 I now turn to ascertain the indirect contribution of the parties.

Ratio of indirect contribution

155 I find that the wife's indirect contributions are as follows:

(a) The children are cared for primarily by the wife. At the time of the marriage and at the time of the birth of the daughter, the husband was residing in Hong Kong. The husband moved back to Singapore before the birth of the son. But even though he lived in Singapore, the husband was rarely at home. The wife therefore became the primary caregiver for the children. She made the children her priority, taking care of all their needs. As mentioned above, the wife took the lead in understanding and addressing the son's special needs. The husband on the other hand was rarely at home after he left his job. He spent much of his time overseas without displaying much interest in the children until the wife commenced divorce proceedings.

(b) The wife also set up the matrimonial home. As the husband was living in Hong Kong at the time of the marriage, the wife was the one who personally oversaw all the major renovation works and additions to the matrimonial home over a period of nine months. She did this in addition to her work commitments as a private banker and even while she was pregnant.

(c) The wife played an instrumental role in the husband's career advancement in Singapore. On top of supporting her husband with dedication, the wife used her family connections in Singapore to assist the husband in settling down in Singapore. She personally helped with his permanent residency application as well as the application for long term visitor passes for his parents. When the husband started his own

hedge fund, the wife was instrumental in finding office space, hiring secretarial support and the opening bank accounts.

156 The husband rejects the wife's submissions as to the magnitude of her own indirect contributions. He submits that only a small percentage of the matrimonial assets should be attributed to the wife to account for her non-financial contributions because the marriage was a short one of about four years.

157 As for his own indirect contributions, the husband points to the following:

(a) At all times during the marriage, the wife was working full-time. In January 2007, the husband left his job to become a stay-at-home father. He became the primary caregiver of the children after he left his job.

(b) The husband also paid most of the family's expenses, even after he left his job. He paid the utilities bill, the foreign worker's levy, the driver's salary and even maintenance and repair bills. The wife paid for the maid for groceries.

(c) The husband also claims to have been very much involved in the renovation of the matrimonial home.

158 In my view, a just and equitable ratio of indirect contribution is 55% to the wife and 45% to the husband. I reach this ratio on a holistic view of the evidence before me which includes the wife's role as the primary caregiver of the two children of the marriage and the fact that the husband frequently travelled for the first few years of the marriage. In favour of the husband

though, I take into account the fact that the husband increased his indirect contributions by helping to take care of the children since his employment ceased in January 2007. Although I have found (see [76] above) that he has deliberately not sought re-employment in order to gain tactical advantage in these proceedings, that motivation does not detract from the fact that his indirect contributions since 2007 did increase, though perhaps not as much as he self-servingly asserts.

159 I also take into account the son's special needs. The fact that the son has special needs certainly does not mean that *only* the wife's indirect contributions increased. I have no doubt that both his parents love and care for the son and have had to bear in their own way the additional responsibilities which arise from his special needs. But I am of the view that his special needs have demanded and received more by way of indirect contributions from the wife than from the husband. I have therefore augmented the wife's indirect contributions by a small margin to reflect this. In my view, if my assessment of 55% indirect contributions to the wife and 45% to the husband is in error at all, it is in error because it is overly generous to the husband.

160 I now turn to the average weighted ratio that should be attributed to the financial and non-financial contribution.

Average ratio of contributions

161 In *ANJ*, the Court of Appeal went on to explain (at [26]) that though in "many instances" the collective indirect contributions made by both parties carry as much weight as the collective direct financial contributions made by both parties, there may be instances where one component assumes greater importance and therefore deserves greater weight than the other. In those

cases, it is open to the court further to calibrate the "average ratio" in favour of one party to reflect what would be a just and equitable result of each case.

162 This calibration, as the Court of Appeal stressed, is in all cases a non-mathematical balancing exercise and a fact-sensitive inquiry which can take into account a number of factors depending on the circumstances of the case (at [27]):

> The circumstances that could shift the "average ratio" in favour of one party are diverse, and in our judgment, there are at least three (non-exhaustive) broad categories of factors that should be considered in attributing the appropriate weight to the parties' collective direct contributions as against their indirect contributions:
>
> > (a) The length of the marriage. Indirect contributions in general tend to feature more prominently in long marriages (*Tan Hwee Lee* ([18] *supra*) at [85]). Conversely, indirect contributions usually play a *de minimis* role in short, childless marriages…
> >
> > (b) The size of the matrimonial assets and its constituents. If the pool of assets available for division is extraordinarily large and all of that was accrued by one party's exceptional efforts, direct contributions are likely to command greater weight as against indirect contributions…
> >
> > (c) The extent and nature of indirect contributions made. Not all indirect contributions carry equal weight. For instance, the engagement of a domestic helper naturally reduces the burden of homemaking and caregiving responsibilities undertaken by the parties, and to that extent, the weight accorded to the parties' collective indirect contributions in the homemaking and caregiving aspects may have to be correspondingly reduced. The courts also tend to give weighty consideration to homemakers who have painstakingly raised children to adulthood, especially where such efforts have entailed significant career sacrifices on their part.

163 Bearing these factors in mind, I am of the view that a recalibration of the average ratio is necessary in this case. I attribute a weight of 70% to direct

contributions and a corresponding weight of 30% to indirect contributions. I arrive at this weightage because: (a) this was a relatively short marriage of four and a half years; (b) the pool of matrimonial assets is large; (c) the parties kept their finances largely separate throughout the marriage; and (d) the parties had the help of domestic staff (*eg*, maids and a driver) which to that extent reduced the weight to be attached to the parties' indirect contribution.

164 The parties' average percentage contribution as derived from their direct and indirect contribution in relation to the matrimonial assets is therefore as follows:

	Wife	**Husband**
Direct contributions (weighted at 70%)	36.3% (25.4%)	63.7% (44.6%)
Indirect contributions (both financial and non-financial) (weighted at 30%)	55% (16.5%)	45% (13.5%)
Average percentage contributions (weighted 70:30)	**41.9%**	**58.1%**

Readjustment of ratio

165 I do not consider that any further adjustments to the weighted ratios of 41.9% to the wife and 58.1% to the husband are warranted to account for the factors enumerated in s 112(2) of the Women's Charter. Both parties asked me to take into account the period of rent-free occupation of the other spouse in a matrimonial asset for the period since the wife left the matrimonial home in March 2008. The fact is, however, that both parties have lived rent-free in a matrimonial asset and have not had to incur additional expense for housing since March 2007. To that extent, I find this a neutral factor. As I am applying a broad brush approach, I do not consider that the division of the matrimonial property will be more just or more equitable if I were to take into account the fact that the husband's period of rent-free occupation is likely to be worth more than the wife's given the relative sizes of the two properties. Again, if I have erred at all in this aspect of my decision, I have erred in favour of the husband.

Most convenient means of distribution

166 I am now left to consider what is the most convenient means to distribute the matrimonial assets. To recap, the total value of the assets is about $16.583m. The wife is entitled to 41.9% of this sum or about $6.948m. That leaves $9.635 for the husband. My primary concern in this respect is to minimise the need to change the ownership of assets held in the parties' names.

167 I therefore order that:

(a) The wife and the husband are to retain the personal property in their respective names.

(b) The husband is to transfer to the wife his interest in the property currently occupied by the wife and children.

(c) The wife is to retain the two Hillcrest properties in her sole name.

(d) As the value to the wife pursuant to orders (a) to (c) above is $5.86m, the husband shall pay to the wife the sum of $1.1m to make up the rest of her share of the matrimonial assets.

(e) All other jointly-owned matrimonial assets (including the matrimonial home) are to be transferred to the husband.

Debts allegedly owed by the wife to the husband

168 The husband further submits that the wife owes him the sum of $473,498.10. This, he submits, is the debt remaining due to him after netting off certain transfers of funds made between the spouses for "foreign exchange purposes" during the marriage. The wife disputes this claim. I decline to take this alleged debt into account in the division of matrimonial assets. If the wife is indeed indebted to the husband in this sum, he has a cause of action against her and is at liberty to recover that sum from her in civil proceedings. I do not consider a division of matrimonial assets under s 112 of the Women's Charter to be the appropriate occasion on which to resolve the disputes of fact which underlie this claim.

169 I now turn to deal with the two remaining ancillary matters: maintenance for the wife and maintenance for the children.

Maintenance

Maintenance for the wife

170 The wife does not ask to be awarded substantive maintenance now. But she submits that she should be awarded nominal maintenance now to preserve her right to seek substantive maintenance in the future in case her circumstances change. Counsel for the wife points out that the wife suffers from Graves' Disease and could in future suffer a relapse.

171 Having considered the matter, it is my decision not to grant the wife any maintenance at all, whether substantive or nominal. I have arrived at this decision for the following reasons. First, the wife is highly educated and financially independent. She earns slightly more than $15,000 a month. Second, the wife will be receiving under my order a substantial portion of the matrimonial assets, including the property that she and children currently occupy and a cash lump sum. That diminishes her need for periodic payments from the husband by way of maintenance for her own maintenance, whether now or in the future. Third, the wife comes from a well-to-do family. Her family members have extended a great deal of support to her over the years, both financial and non-financial. There is no reason to believe that that support will be withdrawn now or in the future. Finally, I note that the marriage between the parties was a rather short one.

172 Given all of these factors, I do not think it would be fair to leave, hanging over the husband for the rest of his life, a possible future liability to maintain the wife for the rest of her life. In these circumstances, I award no maintenance to the wife now or in the future.

Maintenance for the children

173 Under the existing maintenance order dated 7 January 2011, the husband has been paying $3,000 per month and 50% of certain specified costs incurred by the wife for the children upon the wife producing the relevant invoices and receipts.[75]

Arrears of maintenance

174 The husband owes the wife arrears of maintenance for the children amounting to $42,547.02 accumulated from 2011 to May 2015. The wife seeks an order in these proceedings that he pay those arrears. Unlike the civil claim which the husband has attempted unsuccessfully to assert against the wife in these proceedings (see [168] above), his obligation to pay these arrears of maintenance arise in these very proceedings and is indisputable. I therefore exercise my power under s 112(g) of the Women's Charter to order the husband to pay the wife, in addition to the sum of $1.1m found above (see [167(d)]), the sum of $42,547.02.

Future maintenance

175 As for future maintenance for the children, the wife asks that the husband be ordered to pay a fixed monthly sum of $4,500 for the daughter and $6,000 for the son. She has tendered a table detailing the expenses for each child, including household expenses and medical and related expenses.[76]

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75 Defendant's written submissions dated 4 February 2015 at para 42.

76 Plaintiff's written submissions dated 3 February 2015 at page 159 to 161.

176 Having considered the table and the submissions by both parties, I accept that the monthly expenses for the daughter amount to about $3,483 and that the expenses for the son amount to about $6,379. But I am of the view that some of the household expenses for the children which the wife has listed in her table are on the high side. I refer, in particular, to the expenses relating to the two domestic helpers, listed at $2,443.50, and the expenses for "clothing/shoes/toys/ stationery", listed as $1,300. I have therefore adjusted the figures relating to the household expenses of the children.

177 I therefore order that the husband is to pay a fixed monthly sum of $4,000 as maintenance for the daughter and $5,500 as maintenance for the son. In addition, I order that the husband shall pay 50% of any medical expense incurred for either of the two children which is not covered by insurance and which is above $500 on a single occasion.

Costs

178 Having disposed of the ancillary matters, I turn to the issue of costs.

179 The wife submits that she should be awarded the costs of resolving the ancillary matters because the husband has unnecessarily prolonged the proceedings by raising claims in relation to the debt allegedly owed by the wife (see [168] above), the claim for rental (see [165] above) and even claims in relation to assets which were clearly not matrimonial property on any view (see [126] above). Counsel for the wife therefore seeks an order that the husband pay the wife costs in the region of $60,000 to $70,000 being the cost of and incidental to these ancillary proceedings.

180 The husband, on the other hand, argues that each party should be made to bear her or his own costs. Counsel for the husband, relying on *JBB v JBA* [2015] 5 SLR 153, submits that the court should not, through a costs order, increase the acrimony between the parties by signifying a "winner" and a "loser" in these proceedings.

181 I agree with the counsel for the husband. I note also that this is an uncontested divorce. I therefore make no order as to costs.

Husband's further arguments

182 There is a final matter which I ought to mention. After my decision, the husband asked for an opportunity to present further arguments to me on the division of the matrimonial assets.[77] He argues that I have fallen into error in calculating the parties' direct contributions to the pool of matrimonial assets. More specifically, he says that my error is that I have pooled all of the matrimonial real property and then credited to each party as direct contributions only that party's actual historical contributions. He argues that I should instead consider each item of matrimonial real property separately and credit each party with the present net value attributable to that party's actual historical contribution to that item of matrimonial real property. He submits that I have adopted that approach in assessing each party's direct contribution to the *remaining* matrimonial assets, *ie* the matrimonial assets which are not real property; and he submits that consistency requires that I adopt the same approach to the matrimonial real property. The result of this error, he says, is to undervalue his direct contributions to the pool of matrimonial assets and to overvalue the wife's.

[77] Defendant's counsel's letter to the court requesting an opportunity to present further arguments dated 4 September 2015.

183 I set out below a series of tables produced by the husband which illustrate more clearly the nub of the husband's argument. The tables set out on the left reflect my calculations set out in the analysis at [140] – [164] above and set out on the right the result of the approach advocated by the husband. As these are intended merely as illustrations, I have expressed all monetary figures in these tables in millions of dollars rounded off to only two decimal places.

184 First, I set out a table comparing my calculation of the parties' direct contributions with the husband's proposed calculation. The effect of the husband's calculation is to disregard the parties' respective actual direct contributions and to allocate to himself all of the value of the matrimonial home and the Cairnhill property (on the basis that he alone made actual direct contributions towards acquiring them); to allocate to the wife all of the value of the Hillcrest properties (on the basis that she alone made actual direct contributions towards acquiring them); and to allocate to each of them half of the value of the property which the wife and children now occupy (on the basis that each of them made equal actual direct contributions towards acquiring it).

	My calculations (see [150] above)			**Husband's proposed calculations**	
Real property	**Wife's direct contribution**	**Husband's direct contribution**		**Wife's direct contribution**	**Husband's direct contribution**
Matrimonial home	0	$1.77m		0	$7.74m
Property which wife and children now occupy	$0.50m	$0.50m		$1.59m	$1.59m

Cairnhill	0	$0.56m		0	$0.98m
Hillcrest	$1.46m	Nil		$1.92m	Nil
Total direct contributions to real property	**$1.96m**	**$2.83m**		**$3.51m**	**$10.31m**

185 Next, I set out a table comparing my calculation of the parties' direct contributions to all matrimonial property, whether real property or otherwise, with the husband's proposed calculation.

	My calculation (see [153] above)			**Husband's proposed calculation**	
Assets	**Wife's direct contribution**	**Husband's direct contribution**		**Wife's direct contribution**	**Husband's direct contribution**
Jointly owned	$0.02m	$0.02m		$0.02m	$0.02m
In their own names	$0.76m	$1.96m		$0.76m	$1.96m
Real property	$1.96m	$2.83m		$3.51m	$10.31m
Total direct contribution	$2.74m	$4.81m		$4.29m	$12.29m
%	**36.3%**	**63.7%**		**25.9%**	**74.1%**

186 Next, I set out a table comparing my derivation of the ratio for the ultimate division of all matrimonial property with the husband's proposed derivation.

	My calculation (see [164] above)		**Husband's proposed calculation**

	Wife's contribution	**Husband's contribution**		**Wife's contribution**	**Husband's contribution**
Direct contribution	36.3%	63.7%		25.9%	74.1%
Direct contribution (weighted 70%) [A]	25.4%	44.6%		18.1%	51.9%
Indirect contribution	55.0%	45.0%		55.0%	45.0%
Indirect contribution (weighted 30%) [B]	16.5%	13.5%		16.5%	13.5%
Average contribution weighted 70:30 (A+B)	**41.9%**	**58.1%**		**34.6%**	**65.4%**

187 On this basis, and accepting for this purpose my valuation of the entire pool of matrimonial assets as $16.583m (see [146] above), the husband submits that he should be awarded 65.4% of that value amounting to a share of $10.84m, instead of 58.1% of that value amounting to a share of $9.64m. The husband cites the decision in *YG* (at [53]) as authority which considers the parties' direct financial contributions a matrimonial asset in terms of the net value of the asset rather than by reference to the parties' historical actual contribution towards the acquisition of that asset.

188 The wife in response argues that the effect of the husband's approach is to credit to each party as that party's direct financial contribution to each item of matrimonial real property the capital gain attributable to each party's actual direct contribution to that property at the time of acquisition. The wife submits that this is incorrect in principle and unsupported by precedent. She

distinguishes *YG* on the grounds that the court there was dividing sale proceeds comprising only parties' CPF funds used to acquire the property.

189 I have declined to hear the husband's further arguments. I have done so for three reasons.

190 First, I do not consider that I have applied an approach to the matrimonial real property which is different from the approach which I have applied for the remaining matrimonial assets. My approach in respect of each matrimonial asset has been to value each party's direct contributions to that asset as at the time the asset in question was acquired and became part of the pool of matrimonial assets. For the matrimonial real property, I have evidence before me on which to make the necessary findings of the parties' historical direct contributions. For the matrimonial assets which are not real property, I do not have sufficient evidence before me on which to make those findings. In light of the evidential deficiency and adopting a broad brush approach, I have chosen to use the present value of the remaining matrimonial assets to calculate the parties' direct contributions to these assets. I have done so not because I consider it appropriate to use the present value of any of these remaining matrimonial assets to make this calculation, but only because I consider the present value of the remaining matrimonial assets to be a reasonable proxy for each party's historical actual direct contributions to those assets (see [151] above).

191 Second, I do not consider *YG* to be authority for the proposition advanced by the husband. In *YG*, the principal matrimonial asset to be divided was the matrimonial home. The court had before it unchallenged evidence that the husband had made direct contributions of 56% towards acquiring the matrimonial home while the wife had made direct contributions of 44% (*YG* at

[49]). By the time of the ancillary proceedings, the matrimonial home had been sold for $428,000 (*YG* at [34]). The court thus valued each party's direct contributions to the matrimonial home by applying the unchallenged direct contribution ratio to the net sale proceeds. It appears from the judgment in *YG* that the court did not have before it evidence of the actual contributions of the parties to the acquisition of the matrimonial home. Further, because the matrimonial home there had been sold, the parties' direct interest in that asset had crystallised by the time the court came to value it. It is therefore not surprising that the court in *YG* used the net proceeds of sale of the matrimonial home to value the parties' direct contributions to its acquisition.

192 In the present case, I have evidence before me of the parties' actual direct contributions towards the matrimonial real property. And unlike the remaining matrimonial assets, the capital appreciation on the matrimonial real property is substantial. There is simply no reason for me to attribute the substantial capital gains on each item of matrimonial real property to augment each party's direct contributions, when those capital gains arise simply as a result of the effluxion of time and not through either party making a further and actual contribution of monetary value.

193 Third, the effect of the husband's method of calculation amounts to applying the classification method to each item of matrimonial real property. It requires a separate calculation of direct contributions for each such item. It is clear why the husband advocates this: by far the greatest capital appreciation – in both relative and absolute terms – has taken place in relation to the matrimonial home. The husband alone has made direct contributions to the acquisition of that asset. His further arguments are therefore motivated by self-interest, not by any disinterested desire to correct what he considers to be

an error or to achieve what he considers to be consistency in the division of matrimonial assets.

194 I do not consider that the husband's approach will achieve a just and equitable division of the matrimonial property. For the reasons I have already given (see [103] above), I consider that a just and equitable division of all of the matrimonial property in this case points towards the global assessment method. Those reasons apply equally to the matrimonial *real* property. For those reasons, I consider it just and equitable to treat each party's direct contribution towards each item of matrimonial real property to be a direct contribution to the pool of matrimonial real property and, ultimately, to the overall pool of matrimonial assets.

195 I add a final point. Even if I had adopted the husband's approach in calculating the parties' direct contributions to the matrimonial real property, I do not consider it would have made a material difference to my final decision. The husband's approach yields a ratio of 25.9% direct contribution to matrimonial real property for the wife and 74.1% for the husband (see [185] above). If I had adopted the husband's approach and arrived at the same ratio, I would not have considered it just and equitable to attach greater weight to the direct contributions to account for the short duration of the marriage and the large size of the pool of matrimonial assets. I would instead have weighted both direct and indirect contributions equally. If I had done that, I would have arrived at a final ratio for the division of all matrimonial property of 40.45% for the wife and 59.55% for the husband. Adopting a broad brush approach and in light of the size of the total pool of all matrimonial assets, the variance between those figures and the final figures which I have arrived at (see [164] and [186] above) are immaterial.

Conclusion

196 For all of the foregoing reasons, I have made the orders summarised at [2] above, and which are set out in more detail at [64], [89], [94], [167], [172], [174], [177] and [181] of these grounds of decision.

Vinodh Coomaraswamy
Judge

Tan Chee Meng SC, Sim Bock Eng, Sngeeta Rai and Wilbur Lim (WongPartnership LLP) for the plaintiff;
Imran H Khwaja and Edith Chen (Tan Rajah & Cheah) for the defendant.