

BCB v BCC
[2013] SGCA 14

Case Number : Civil Appeal No 15 of 2012
Decision Date : 28 January 2013
Tribunal/Court : Court of Appeal
Coram : Sundaresh Menon CJ; Andrew Phang Boon Leong JA; Tan Lee Meng J
Counsel Name(s) : Raymond Yeo (Raymond Yeo) for the appellant; Mimi Oh, Cindy Lim and Simren Kaur (RHT Law Taylor Wessing LLP) for the respondent.
Parties : BCB — BCC

Family Law – Matrimonial Assets

[LawNet Editorial Note: This was an appeal from the decision of the High Court in [\[2012\] SGHC 144.](#)]

28 January 2013

Judgment reserved.

Andrew Phang Boon Leong JA (delivering the judgment of the court):

1 This is an appeal by the Husband against the decision of the judge (“the Judge”) in *BCB v BCC* [2012] SGHC 144 (“the GD”) with regard to two issues, *viz*, the issue of care and control of the children and the division of matrimonial assets pursuant to s 112 of the Women’s Charter (Cap 353, 2009 Rev Ed) (“the Act”), respectively.

2 After considering the submissions of the parties, we were of the view that the Husband’s appeal with regard to the issue of care and control of the children was wholly without merit and dismissed the appeal for the reasons given by the Judge in the GD.

3 However, we reserved judgment with regard to the issue relating to the division of matrimonial assets. Let us now turn to the background briefly before setting out our decision in relation to this particular issue.

Decision below in relation to the division of matrimonial assets

4 The matrimonial assets of the parties were as follows:

- (a) The Braemar Home, with an estimated net value (deducting the loan) of \$2.3 million;
- (b) The HDB Flat, with an estimated net value (deducting the loan) of \$273,000;
- (c) Assets in the Husband’s name totalling \$60,000; and
- (d) Assets in the Wife’s name totalling \$130,000.

5 The Judge found it appropriate to exclude items (c) and (d) in the preceding paragraph from the equation, ordering that each party retain their respective assets. In so far as items (a) and (b) (“the Properties”) were concerned, the Judge found that the ratio of direct contributions by the Husband and Wife was 34.9:65.1. Insofar as the issue of indirect contributions was concerned, the

Judge considered:

- (a) the length of the marriage (15 years);
- (b) the birth and upbringing of the three children;
- (c) that the Husband had been as much involved in the upbringing of the children as the wife;
- (d) the fact that the Husband travelled frequently and that, during these times, the Wife took care of the children on her own; and
- (e) that the Wife's income was principally relied on when the Husband was not doing so well in his business.

6 Having regard to the circumstances, the Judge awarded the wife an additional 5% for indirect contributions.

Our decision

Introduction

7 The general principles which ought to guide the courts with regard to the division of matrimonial assets pursuant to s 112 of the Act ("s 112") are well-established and we therefore do not propose to rehearse them in detail here. We would only observe that, in the context of the present appeal, the very fundamental principle that the court concerned ought to utilise a broad-brush approach should be borne firmly in mind.

Broad-brush approach instead of the traditional approach

8 It bears reiterating that this court, has, on previous occasions, stated its inability to agree with the traditional approach towards the division of matrimonial assets, which places *undue* emphasis (or even focus) on *direct* contributions. In *NK v NL* [2007] 3 SLR(R) 743 ("*NK v NL*"), for example, this court observed as follows (at [23]–[27]):

23 The traditional approach is to consider direct contributions as a *prima facie* starting point before making adjustments to reflect the non-financial contribution of the parties (see, for example, *Tan Bee Giok v Loh Kum Yong* [1996] 3 SLR(R) 605 ("*Tan Bee Giok*") at [47]). This prevalent approach of the courts held sway under the former s 106 of the Women's Charter (Cap 353, 1985 Rev Ed) where the underlying spirit of s 106(2) was to lean towards equality subject to the considerations mentioned therein. This appears to be the approach adopted by the Judge in the present case. Some commentators have since contended that the traditional approach should apply with equal force under the new s 112 of the Act, which removes the reference to equality (see, for example, Naina Parwani, "Division of Property", *The Singapore Law Gazette* (April 2000) at pp 16-18).

24 With respect, we are unable to agree. The traditional approach was considered in the Singapore High Court decision of *Soh Chan Soon v Tan Choon Yock* [1998] SGHC 204 by Warren L H Khoo J, who interpreted direct financial contributions as only one factor amidst the multifarious factors for consideration (at [6]–[7] and [9]), as follows:

As I said, the learned district judge went meticulously into the arithmetics of how much money each party contributed towards the acquisition of the flat, and came to the

percentages she did. In doing this, [her] [H]onour no doubt followed the approach in some reported cases (including some from the High Court). Without intending any criticism, however, I would only say that in the vast majority of the run-of-the-[m]ill cases that come before the courts, for the purpose of arriving at a just and fair division of the matrimonial assets, it is *not particularly helpful to try to ascertain, sometimes in the face of conflicting evidence, the exact amount of money that each party has put in directly for the acquisition of the family home.*

In the usual situation of a couple with limited means striving to raise a family and building up a home, each party will in the normal course make his or her contribution in monetary or non-monetary terms. If both are working and earning an income, the wife, for example, may pay for the daily household expenses and the children's needs while the husband may pay the down payment for a flat and the monthly repayments of the mortgage. It cannot in justice be said that the wife does not indirectly contribute to the equity in the flat. In a relationship ruled by the heart rather than the head, she would not keep accounts of what she has expended for the family. When it comes to dividing the family assets in the unfortunate event of a divorce, it *would not be right to start from the basis that the party who is shown by documentary evidence to have made direct monetary contribution to the equity of the family home should be treated as having made a greater contribution than the other party.*

...

There is a touch of artificiality in such cases to use as the starting point in a division of the matrimonial assets the amount of money each party has contributed directly towards the acquisition of the home. This ignores the indirect contributions, monetary and otherwise, most of which are incapable of any meaningful ascertainment either because no record was kept or because the nature of the contribution is irreducible into monetary terms.

[emphasis added]

25 These observations were cited with approval in the Singapore High Court decision of *Louis Pius Gilbert v Louis Anne Lise* [1999] 3 SLR(R) 402 by Goh Joon Seng J and considered in the (also) Singapore High Court decision of *Yow Mee Lan v Chen Kai Buan* [2000] 2 SLR(R) 659 by Judith Prakash J, who emphasised (at [32]) that a party's financial contributions to the acquisition of any particular matrimonial asset could not be primarily determinative of how it was divided, and that the court was free to give as much weight or more to other non-financial factors. Prakash J further held (at [43]) that:

... [M]arriage is not a business where, generally, parties receive an economic reward commensurate with their economic input. It is a union in which the husband and wife work together for their common good and the good of their children. Each of them uses (or should use) his or her abilities and efforts for the welfare of the family and contributes whatever he or she is able to. The partners often have unequal abilities whether as parents or as income earners but, as between them, this disparity of roles and talent should not result in unequal rewards where the contributions are made consistently and over a long period of time.

26 Prakash J's approach was unequivocally endorsed by this court in *Lim Choon Lai v Chew Kim Heng* [2001] 2 SLR(R) 260, where L P Thean JA, who delivered the judgment of the court, stated as follows (at [14]):

In our respectful view, the approach adopted by Judith Prakash J in *Yow Mee Lan v Chen Kai*

Buan [[2000] 2 SLR(R) 659] is correct. In determining a 'just and equitable' division of matrimonial assets under s 112(1) of the Women's Charter, the court must, as directed by s 112(2), have regard to all the relevant circumstances of the case at hand, and in particular the matters enumerated in that subsection, in so far as they are applicable, and on that basis determine what a 'just and equitable' division should be. The matters enumerated there comprise both financial and non-financial contributions made by the parties. *Where financial contributions are concerned, the court must, of course, take into account the sums contributed by each party*; these are the matters specifically mentioned in paras (a) and (b) of s 112(2). However, *this does not mean that the court should engage in a meticulous investigation and take an account of every minute sum each party has paid or incurred in the acquisition of the matrimonial assets and/or discharge of any obligation for the benefit of any member of the family, and then make exact calculations of each party's contributions*. The court must necessarily take a broader view than that. As for the non-financial contributions, they also play an important role, and depending on the circumstances of the case, they can be just as important. At the end of the day, taking into account both the financial and non-financial contributions, the court would adopt a broad-brush approach to the issue and make a determination on the basis of what the court considers as a 'just and equitable' division. [emphasis added]

27 These clarifications unequivocally reiterate the duty of the court to remain cognisant of the limitations of using the parties' direct financial contributions as a starting point. This is eminently sensible as direct financial contributions alone are far from determinative of the *actual* contributions to the economic partnership as a whole. Three points of guidance can be added. First, the abolition of the s 106 distinction between joint and sole acquisition of assets paves the way for the court to put financial and non-financial contributions on an equal footing. Where before, a spouse's financial contribution by paying for the property was dominant in determining the proportions of division, it is now only one among many factors for consideration (and see Leong Wai Kum, "The Just and Equitable Division of Gains Between Equal Former Partners in Marriage" [2000] Sing JLS 208 at 209). It is therefore the duty of the court to recognise the reality of family dynamics and to give due weight to all indirect contributions of the other party which are by their nature not reducible to monetary terms...

[emphasis in original]

9 With respect, it appears to us that the Judge applied, in substance, the traditional approach in the present case by placing more emphasis on the direct contributions of the parties (in particular, the wife). We are of the view that the broad-brush approach should have been utilised instead.

10 The broad-brush approach is particularly apposite because, in the nature of things, an approach that is rooted in the forensic search for the actual financial contributions of the parties towards the acquisition of the assets will inevitably fail to adequately value the indirect contributions made towards the other expenses that are incurred in the course of raising a family and will also be a heavily fact-centric exercise. Moreover, these facts will typically not be borne out by contemporaneous records, as underscored by the court in *Soh Chan Soon v Tan Choon Yock* [1998] SGHC 204 at [6] (cited by this court in *NK v NL*, as quoted above at [8] of this judgment). The broad-based approach also avoids what this court has described as an otherwise fruitless "mechanistic accounting procedure reflected in the form of an arid and bloodless balance sheet" that "would be contrary to the letter and spirit of the legislative scheme" underlying s 112 (see *NK v NL* at [36], an observation which was most recently referred to by this court in *AYQ v AYR* [2012] SGCA 66 ("*AYQ v AYR*") at [18]). Indeed, such a broad yet principled approach enables us to strike a balance between the search for a just and principled outcome in each case and the need to remain sensitive

to the nuances of each fact situation we are confronted with. We pause to note – parenthetically – that this is why the Singapore courts have avoided extreme points of departure. For example, this court has held that there is no starting point, presumption or norm of an equal division of matrimonial assets, a holding that is wholly consistent with the legislative background which resulted in s 112 and its concomitant broad-brush approach (see, for example, the decision of this court in *Lock Yeng Fun v Chua Hock Chye* [2007] 3 SLR(R) 520 at [50]–[58]). Another example – to be considered in a moment – is the fact that the court will take into account *both* direct *as well as* indirect contributions by *both* parties to the marriage.

The importance of taking into account direct as well as indirect contributions

General principles

11 The broad-brush approach is also buttressed by other complementary principles which tend not to be accorded their due weight under the traditional approach. One such principle is that *indirect* contributions of every stripe should be taken *fully* into account; in this regard, the following observations in *NK v NL* (at [34]), which were recently reiterated in *AYQ v AYR* [2012] SGCA 66 (“AYQ”) (at [24]), bear repeating:

A related point, which is of special importance where one spouse (often the wife) has devoted his or her entire time to the family over a lengthy period of time, is to ensure that indirect contributions are *not undervalued*. We have dealt with this particular issue recently and reiterate the proposition laid down in that case, as follows (see [*Lock Yeng Fun v Chua Hock Chye* [2007] 3 SLR(R) 520] ... at [39]):

In this regard, we also endorse the following views expressed by Debbie Ong Siew Ling & Valerie Thean, ‘Family Law’, (2005) 6 SAL Ann Rev 259 at para 13.31:

It could be contended that in most cases where one party experiences great financial success, the other often bears a heavy burden in respect of the children and home; in some cases this entails the sacrifice of any potential for career development. Non-financial contributions are impossible to measure, and success on that front, intangible and difficult to define. It is hoped that this would not stand in the way of courts according due regard to the fact that the financial aspect is but one facet of the many demands that husband and wife must have weathered if a family has had many years together.

Our examination of the case law shows that the courts might not have given sufficient recognition to the value of factors like homemaking, parenting and husbandry when attributing to them a financial value in the division of matrimonial assets. This ought *not* to be the case. It is true that, by their very nature, such kinds of contributions to the marriage are, as pointed out in the quotation above, difficult to measure because they are, intrinsically, incapable of being measured in precise financial terms (we assume that this is what the authors meant when they said that such contributions were impossible to measure). Difficulty in measuring the financial value of such contributions has never been – and ought never to be – an obstacle to giving the spouse concerned his or her just and equitable share of the matrimonial assets that is commensurate with his or her contributions, taking into account (of course) the other relevant contributions and factors.

[emphasis in original]

12 In our view, it is of the first importance to note that the observations quoted at the end of the preceding paragraph apply *with equal force to both husband as well as wife alike*. It is *not* simply one or the other spouse's indirect contributions that must be given their full value; *both* spouses' indirect contributions *must* be taken *fully* into account when the court concerned is exercising its discretion pursuant to s 112. The importance of this particular observation in the context of the present appeal will become clear in a moment.

Illustrations from the case law

13 The trend in matrimonial division for marriages lasting ten years or longer, specifically marriages in which both parties were working and in which the couple had children, was discussed in a recent essay by Lim Hui Min, "Matrimonial Asset Division: The Art of Achieving a Just and Equitable Result" in *SAL Conference 2011: Developments in Singapore Law Between 2006 and 2010* (Yeo Tiong Min, Hans Tjio and Tang Hang Wu gen eds) (Academy Publishing, 2011) at pp 191–271 ("*Matrimonial Asset Division*"). For the purposes of this appeal, a particularly apposite section of the essay reads as follows (at [101]):

(2) "Ordinary" working mother

It appears that when the husband has greater direct financial contributions to the matrimonial assets than the wife, who is an "ordinary" working mother, the wife will get about 40% of the pool of matrimonial assets, which will be more than her direct financial contributions.

14 Several cases were listed following the above paragraph. For present purposes, a discussion of the Singapore High Court decision of *AKF v AGK* [2010] SGHC 225 ("*AKF*") is particularly instructive.

15 In *AKF*, the marriage lasted for 13 years. Both parties were employed during the subsistence of the marriage. The wife was an auditor and the husband in the advertising industry. Using the "global assessment methodology" (see *NK v NL* at [31]), the judge awarded the wife 40% and the husband 60% of the combined value of the total matrimonial assets. In that case, the judge observed as follows (at [25]):

While the Husband made a greater degree of direct financial contribution to the matrimonial assets (which can be readily traced to the purchase price of those assets), I was of the view that *the Wife's contributions towards the family's welfare, which included both financial contributions unrelated to the acquisition or maintenance of any identifiable matrimonial asset* (e.g. expenditure on the children's education, healthcare and the like, which was harder to trace) as well as *indirect non-financial contributions to the family* (e.g. the time, effort and commitment she put in as the children's primary care-giver notwithstanding her career, as well as the support given to the Husband), ought to be recognised. I also took into account the Husband's indirect contributions to the family as a father and husband in deciding on a 40%-60% division. [emphasis added]

16 Whilst cases are decided on their individual facts, there are some similarities between the present case and the case of *AKF*. Both parties to the marriage were working. In the present case, it was a longer marriage but little turns on the additional two years of the marriage here. One party, here the wife (the husband in *AKF*), made a greater direct financial contribution to the matrimonial assets. The other party, here the husband (the wife in *AKF*), contributed towards the family's welfare, both financially and non-financially. However, this is where the similarities end. In the present case, the husband was awarded 30% of the matrimonial assets, unlike the wife in *AKF*, who was awarded 40%.

17 We now turn to other relevant decisions in order to obtain a general understanding of how cases on broadly similar facts have been decided. In the decision of this court in *Pang Rosaline v Chan Kong Chin* [2009] 4 SLR(R) 935, the parties were both working and had children. The marriage was also a lengthy one, lasting the better part of 32 years. The trial judge had divided one of the two properties concerned in the proportion 80:20 in favour of the husband. On appeal, this court varied the judge's division on that property to 60:40 in favour of the husband. In doing so, this court held as follows (at [25]):

Bearing the above principles in mind, we were of the view that a "just and equitable" division of both the Neptune Court property as well as the Sennett Road property pursuant to s 112(1) of the Act would (having regard to all the circumstances) be in the ratio of 40% to the wife and 60% to the husband. In the circumstances, we varied the order of the court below to reflect this decision (viz, that the Neptune Court property also be apportioned in the ratio of 40% to the wife and 60% to the husband, instead of 20% to the wife and 80% to the husband as the Judge had originally ordered in the court below). *In this regard, and by way of recapitulation, we bore in mind, in particular, the fact that the wife had in fact made indirect contributions to the marriage as well as the fact that she had in fact contributed (albeit in a much smaller proportion) towards the direct financing of the Neptune Court property* (we pause to observe, parenthetically, that, if these additional reasons were not taken into account, the Judge's decision with respect to the Neptune Court property would, in fact, have been rather generous). In arriving at our decision, we also bore in mind the husband's indirect contributions (see also *NK v NL* ([21] supra) at [37]) as well as the fact that he had contributed significantly more towards the direct financing of the Sennett Road property. [emphasis added]

18 In the recent decision of *AYQ*, the parties had been married for 23 years, and there were 2 children of the marriage. Both parties were working during the marriage, one as an aesthetics doctor and another as an eye surgeon. This court held that the division in that case should be 40.96% to the wife and 59.03% to the husband.

19 In the Singapore High Court decision of *Chow Hoo Siong v Lee Dawn Audrey* [2003] 4 SLR(R) 481, the parties were married for 11 years and both were working during the marriage. However, there were no children from the marriage. Nevertheless, the court held (at [25]):

Considering the length of the marriage, the nature of the assets and the contributions towards the marriage by the husband and the wife, I am of the view that a division between the wife and husband in the ratio 35:65 would be fair.

20 In the Singapore High Court decision of *Pan Yee Ching v Wee Aik Joo* [2001] SGHC 351 ("*Pan Yee Ching*"), the marriage in that case lasted for approximately 17 years. There were two children of the marriage, and both parties were, for the most part, working during the marriage. The court held that it was just and equitable that the matrimonial asset in question (a flat) be sold and the proceeds be distributed to the parties equally. It is significant that the court "was not impressed by the evidence of either party", observing that "both were totally nonchalant about the ancillary matters once the Decree Nisi was granted" (see *Pan Yee Ching* at [53]).

21 In the Singapore High Court decision of *Liew Chui Fong (mw) v Yew Kok Chin* [2007] SGHC 225, the marriage lasted 28 years and the parties had two children. Both parties were working during the marriage. In that case, the court held (at [10]):

Bearing in mind Mdm Liew's low salary as compared to that of her husband and after taking into account her non-financial contribution in *looking after the family, a task which was shared with*

Mr Yew as they were both working parents for a long time, an award of 40% of the matrimonial property to Mdm Liew is, in view of the broad-brush approach endorsed by the Court of Appeal in *Lim Choon Lai* ([7] *supra*), not unfair to her. [emphasis added]

22 In the Singapore High Court decision of *YG v YH* [2008] SGHC 166 ("*YG v YH*"), the husband and wife were married for eight years. There were two children of the marriage. Both parties were "full-time working adults" (see *YG v YH* at [55]). The wife in that case was held to have provided more direct financial contributions as well as some indirect non-financial contributions to the marriage, but the court ultimately held, using the broad-brush approach, that the appropriate division of the pool of matrimonial assets ought to be 55% for the wife and 45% for the husband. This was after it had found that the husband had provided more indirect financial contributions to the marriage (see *YG v YH* at [57]–[60]).

23 In the decision of this court in *Lim Choon Lai v Chew Kim Heng* [2001] 2 SLR(R) 260, the parties were married for 30 years and both parties were working during the marriage. There were two children of the marriage. This court ordered a division of 60:40 of the matrimonial property in favour of the wife. In that case, the court had no doubt that during the 30 year marriage it was the wife who bore the main burden of supporting the family and providing for its welfare. The court also held that in terms of indirect contributions, the wife, who was a schoolteacher, probably had more time to spend with the family and children, unlike the husband, who worked as a clerk and who would not have been as likely to have had the time to spare in this regard.

24 In the Singapore High Court decision of *Wong Suit Kam v Tan Beng Wah Benny* [2006] 2 SLR(R) 601, the parties were married for almost 33 years. Both parties were working throughout most of the marriage. As highlighted in *Matrimonial Asset Division* (at [101]), the wife's direct financial contribution to the total matrimonial asset pool was slightly less than 20%. The court ordered that the distribution of the matrimonial assets between the husband and the wife should be in the ratio of 55:45, respectively.

25 In the Singapore High Court decision of *AHJ v AHK* [2010] SGHC 148 ("*AHJ*"), the parties were married for seven years and there was one child of the marriage. Both parties were working. The court held that, besides two assets of the marriage, all other assets would remain the property of the respective parties. In relation to the two assets, the first being a St Martin's apartment (which the husband acknowledged was within the pool of matrimonial properties for division (see *AHJ* at [19])), the judge held (at [26]) that "[a]lthough the wife's indirect contributions were hardly significant and the property was bought years before the marriage (and most probably before the husband even knew the wife as she would still be a teenager in 1993), I decided, in viewing everything from a broad perspective, that she ought to receive 30% of its net value". The second asset was the De Royale matrimonial home. In respect of this particular asset, the husband had claimed direct financial contributions amounting to 73% and asserted that the wife's direct financial contributions were 27%. The husband asserted that he was the main breadwinner of the family and paid for most of the household expenses during the subsistence of the marriage, although the wife also claimed to have borne the bulk of these expenses (see *AHJ* at [18]). The judge held (at [27]) that with respect to "... the De Royale matrimonial home, ... 45% [of the net value of the sale proceeds] be given to the wife".

26 In the Singapore District Court decision of *AEL v AEM* [2009] SGDC 413, the husband and wife were married for only about 5 years, with a 5 year old son from the marriage. Both parties were working during the marriage. The asset in question was an HDB flat, where direct contributions were in the following proportions: 78% from the husband and 22% from the wife. The district judge held (at [7]):

Using very broad strokes albeit tweaked in the wife's favour, the parties CPF contributions of \$12,011 (wife) and \$43,737 (husband) translated into the wife having paid 22% and the husband 78%. The court's award of a 35% share gave the wife generous recognition for her indirect contributions of some 13% for a short marriage.

A summary

27 The purpose of highlighting the above decisions (which necessarily constitute but an indicative sample only) is to demonstrate a certain trend in cases that share *broadly* similar facts. This trend appears to be that, for marriages of moderate lengths of time (see, for example, *AKF*) or for marriages which have lasted for a very long time (see, for example, *Rosaline Pang*), and where there are children to the marriage and both parties are working and have made direct as well as indirect contributions to the marriage, the courts would recognise *all* these contributions *despite* arguments to the effect that one party had made *more direct* financial contributions.

Application to the facts of the present appeal

28 From a survey of previous decisions, it has, more often than not, been the husband who has been the one arguing that he has made greater direct financial contributions and should accordingly get no lower an amount than that which he had contributed in terms of his direct financial contributions. In the present case, it is the *converse* situation, as it was *the wife* who provided more direct financial contributions to the two assets and who argued before this court that the Judge was correct in taking that 65% direct contribution and adding a 5% premium for her indirect contributions. However, as we have already emphasised in the preceding paragraph, *all* contributions must be taken into account by the court in adopting a broad-brush approach.

29 The converse situation where *the wife* has provided more direct financial contributions, whilst still very much more the exception rather than the rule (at least at the present time), has in fact been considered by our courts. In the Singapore High Court decision of *Lim Ngeok Yuen v Lim Soon Heng Victor* [2006] SGHC 83 ("*Lim Ngeok Yuen*"), for example, the marriage lasted for about 29 years and there was one child of the marriage. As the court in that case described it (at [6]):

This was an *uncommon* case in that the wife had been more successful in her career than the husband and had, thus, acquired substantially more assets than he had. *The usual positions found in divorce proceedings were therefore reversed and here it was the husband who was fighting for a larger share of the matrimonial assets ostensibly belonging to the wife and the wife who was trying to limit his claim.* [emphasis added]

30 In point of fact, the husband only possessed a fraction of the wife's assets and had contributed 24% in direct financial contributions towards the purchase of the matrimonial home. The court nevertheless awarded the husband 20% of the wife's assets and 40% of the matrimonial home. However, the wife was allowed to retain all her interest in another property as "she had bought this property sometime after the parties had separated and after the husband had ceased to make contributions to the family, although technically it did form a matrimonial asset" (see *Lim Ngeok Yuen* at [45]).

31 In arriving at its decision, the court observed as follows (at [40]):

In *Yow Mee Lan v Chen Kai Buan* [2000] 4 SLR 466 ("*Yow Mee Lan*") at [32], I observed that in the light of the legislative changes that had been made to ss 112(1) and 112(2) of the Act, the court's task was to consider the marriage before it as a whole and also the role played by each of

the parties in the physical and emotional care of the family and in their financial dealings in order to arrive at a fair division of the assets. Thus, I said, *a party's financial contributions to the acquisition of any particular matrimonial asset could not be principally determinative of how it was divided and the court was free to give as much weight or more to other non-financial contributions.* [emphasis added]

32 The court also observed thus (at [42]):

There was no doubt that throughout the marriage, the wife earned more than the husband did. There was also no doubt that the husband's business ventures were sometimes unsuccessful and the parties suffered financially because of this. But, as the wife herself admitted, *the husband did work throughout the marriage and, at the end of it, he continued to be gainfully employed. Whilst he did not earn as much as she did and may have squandered some of his earnings, he continued throughout the marriage to make an effort to earn his keep and did not rely totally on her.* [emphasis added]

33 Most importantly, perhaps, the court noted as follows (at [45]):

In this case where it was the *wife who had the more steady and lucrative career* but where both parties did contribute towards the family and the assets, I thought it would be *wrong* to do as the wife suggested and deprive the husband of any share in the matrimonial assets except for the Wing On property which he had helped finance. *There have been many cases in Singapore where a wife who has made no financial contribution at all to the family has, on the dissolution of the marriage, received more than 30% of the assets in recognition of her non-financial contributions.* In *Yow Mee Lan*, I also stated (at [43]) that *whilst parties to a marriage often have unequal abilities whether as parents or as income earners, as between them this disparity of roles and talents should not result in unequal rewards where the contributions are made consistently and over a long period of time.* [emphasis added]

34 Accordingly, whilst rare, our courts have dealt with situations where *the wife* has provided more direct financial contributions than the husband. Most importantly, for the purposes of the present appeal, the courts *have applied the same principles* as when they have had to divide assets where it was the husband who had provided more direct financial contributions, *viz, that regardless of who had provided more direct financial contributions, the court is to consider all the direct as well as indirect contributions furnished by both parties to the marriage in a broad-brush fashion* (see also above at [27]).

35 Looked at in this light, we have, with respect, difficulty with the decision rendered in the court below in the present case. It would perhaps be easier to illustrate why we have this difficulty by considering a hypothetical fact situation which constitutes a variation on the facts of the present case. If, for argument's sake, we *reverse* the genders of the parties in the present case, *but* leave all other facts as they are, these would be the facts: The wife – after 15 years of marriage in which she and her husband had both worked and contributed to the marriage, both directly and indirectly – receives 30% of the matrimonial assets, whilst the husband receives 70% of the said assets (as was the decision in this case). Such a division finds no precedent in the absence of exceptional factors. It is pertinent to observe that the court would, in all likelihood (and in accordance with the established precedents), have varied the division upwards in favour of *the wife* in *this* particular hypothetical fact situation. Accordingly, simply because the facts of the present case are slightly different in so far as it is the *wife (instead of the husband)* who has contributed more direct financial contributions to the assets does not mean that the same principles of division should not apply in the present case.

36 We are of the view that the Judge, with respect, appeared to accord *too much emphasis* to the *direct* financial contributions of the parties. Whilst such contributions are not unimportant, they do not (as alluded to above) constitute the overriding factor. In order to explain why we arrived at this particular conclusion, it would be apposite to turn to the Judge's treatment of the *indirect* contributions of the parties.

37 Whilst taking into account the Husband's indirect contributions in a more general sense (for example, his relationship with his children), the Judge did not, with respect, take sufficient account of the Husband's indirect *financial* contributions. The Husband did contribute *substantially to the family's expenses*, especially in the early years of the marriage before the Husband fell on hard times, and also post-2007. The Judge appeared to implicitly acknowledge this, when he stated in the GD (at [19]) that:

When the Husband was not doing so well in his business, the family had relied principally on the Wife's income.

38 When the *Husband* was doing well in his business, it was likely the case that the family had relied principally on *his* income. Indeed, it appears to us that whilst the Wife did contribute *directly* towards the mortgage repayments *vis-à-vis* the Properties, the Husband *not only* contributed towards *these* repayments (albeit less in quantum) *but also to the family's expenses*.

39 In this regard, there is – significantly, in our view – no evidence that the Husband had dissipated his salary (unlike, for example, the situation in *NK v NL* (see, especially, at [55]–[56])).

40 In the circumstances, the appeal against the decision of the Judge in relation to the proportion of the sale proceeds of the Properties ought to be allowed. We are of the view that the net sale proceeds for the Properties should, taking into account all the relevant circumstances, be divided in the proportion of 40% to the Husband and 60% to the Wife instead.

Conclusion

41 For the reasons set out above, we dismiss the appeal with regard to the issue relating to care and control of the children, and allow the appeal with regard to the issue relating to the division of matrimonial assets. In so far as the latter issue is concerned, we order that the net sale proceeds from the Properties be divided in the proportion of 40% to the Husband and 60% to the Wife instead. In the circumstances, we find it appropriate (as did the Judge in the court below) to make no order as to costs with regard to the present proceedings.

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