

NK v NL
[2006] SGHC 204

Case Number : DT 3202/2004
Decision Date : 21 November 2006
Tribunal/Court : High Court
Coram : Lai Siu Chiu J
Counsel Name(s) : Kanagavijayan (Kana & Co) for the petitioner; Sarbrinder Singh (Kertar & Co) for the respondent
Parties : NK — NL

Family Law – Custody – Care and control and access – Whether infant's welfare better looked after by mother or father

Family Law – Maintenance – Wife – Maintenance of former wife – Quantum of maintenance – Matters to be considered – Section 114 Women's Charter (Cap 353, 1997 Rev Ed)

Family Law – Matrimonial assets – Division – Apportionment of assets – Section 112(2) Women's Charter (Cap 353, 1997 Rev Ed)

21 November 2006

Lai Siu Chiu J:

1 The parties herein were granted (on an amended petition and cross- petition) a divorce decree *nisi* on 3 May 2005. Subsequent thereto, ancillary matters came up before me for determination. I then made the following orders on the issues of division of matrimonial assets and custody of the children:

(a) NL ("the husband") was to pay NK ("the wife") \$300,000 for the wife's share of the matrimonial property ("the Property") in consideration for which the wife would execute a transfer of her interest in the Property in favour of the husband, who was to reimburse the wife's Central Provident Fund ("CPF") withdrawals plus interest which she had utilised in the purchase.

(b) The transfer of the Property was to be effected within 30 days of the date of the order of court.

(c) The husband was to transfer to the wife the title to a Mercedes Benz vehicle ("the Car") and pay off the Car's outstanding hire-purchase instalments.

(d) The husband was to pay the wife a further sum of \$515,000 as her half share of the matrimonial assets by ten equal monthly instalments of \$51,500 each commencing from 1 October 2006.

(e) The husband and the wife were to have joint custody of the two youngest children of the marriage, viz A and B, while the husband was to have care and control of B until she completed her "O" level examinations.

(f) The husband was to continue to pay for the education and living expenses of B so long as B studied and completed her education in Singapore.

(g) As long as the wife resided in Singapore, she was to have reasonable access to B

at all times.

(h) The husband was to continue to pay for A's educational expenses in the United States until A completed her high school education, such expenses to include school fees and living expenses with the payment to be made direct to A's bank account. In the event A gained admission to an American university, the husband would continue to pay for her education and living expenses.

(i) The husband was to pay a monthly maintenance sum of \$3,600 to the wife to be credited directly into the wife's POSB account.

(j) The wife was to be paid \$50,000 of the husband's CPF savings in his ordinary account when the husband attained 55 years of age pending which there would be a charge on the husband's CPF account for the amount.

(k) Each party was to bear its own costs.

The wife, being dissatisfied with my decision, has appealed against all my orders in Civil Appeal No 86 of 2006.

The background

2 The parties were married on 10 July 1982 when the wife was only 19 years old. The couple had four children between 1982 and 1992, the eldest and second child are now 24 and 22 years old respectively and both have completed their tertiary education; the eldest child is already working while the second child is serving his national service. The husband is a director in his family's fish import and export business ("TFA") in which business the wife claimed she has helped since 1984. The wife also helped to run another family business of the husband ("SAN").

3 By 1985, the two businesses were not doing well so the wife started (with the husband's sister) a florist shop, which business was eventually wound up in the late 1980s (due to mismanagement by the wife according to the husband).

4 At the husband's behest, the wife registered in or about 1986 a wholesale business ("EAF") to which she added the husband as a partner in the early 1990s. (The husband complained that the wife disobeyed his instructions which were to register the business for him with him as the sole-proprietor.)

5 In 1994, the husband and his family encountered problems in running TFA. Consequently, the husband started another company called TFI of which he became managing director while the wife was made a director on 1 January 1997. The wife was given 10% of the shareholdings in the company. She alleged the husband forced her to give up her shares which were transferred to the eldest child in March 2004. The wife also claimed she was never paid director's fees up to the time she was forced to resign from the company on 30 November 2004. The husband disputed her resignation, claiming the wife left the company of her own accord and he further alleged that she was too lazy to work. The wife deposed she did not look for other employment after her resignation. She felt that at 42 years of age and with her qualifications ("O" level certificate) she would not be able to secure another job. Instead, she decided to devote her time to looking after A and B.

6 When she started working in TFA in 1984, the wife said she was paid \$300 per month. When she started working in TFI in 1994, her salary was \$2,500 per month which sum was gradually

increased until it reached \$2,800 around 2003. The husband disputed the figure of \$2,800, claiming the wife's last drawn net salary was \$2,240.

7 The wife deposed to a comprehensive list (numbering 13 items) of her duties in EAF and TFI which included managing the accounts. This claim was disputed by the husband who said he had accounts staff to do the work. The husband also allegedly expected her to liaise with customers and to attend to their requirements and proposals. The wife was required to accompany the husband on business trips to help build good commercial relationships. However, since the divorce, the husband had not asked her to go on such trips.

8 The wife claimed the business of TFI prospered but the husband would or did not declare the profits he made therefrom. Instead, he used the profits to invest in foreign currencies and to make other investments. She was unaware of his investments until she chanced upon documents in June/July 2004, which revealed that the husband's cash and time deposits with banks (in local and foreign currencies) totalled \$5,065,299.29.

The wife's assets, liabilities and expenses

9 In her first affidavit of means filed on 14 July 2005, the wife deposed she had the following assets:

- (a) cash in five bank accounts (three current and two fixed deposits) amounting to \$22,500.80;
- (b) CPF savings of \$49,354.41, \$30,500 and \$24,067.54 in her ordinary, medisave and special accounts respectively;
- (c) joint owner with the husband of the Property for which she had utilised a principal sum of \$94,200.00 from her CPF savings (with accrued interest of \$26,967.00 as of 9 July 2005) towards its purchase.

The wife's liabilities were essentially credit card expenses, which sums were negligible.

10 The wife was the assured under four insurance policies of \$50,000 value each which she had effected on the lives of her four children and for which she said she paid premiums totalling \$250 per month.

11 The wife listed her monthly expenses as \$8,395. The figure comprised of household expenses of \$3,345 (food, maid and foreign domestic worker's levy, utilities, telephone/mobile telephone, Internet charges and groceries), \$3,650 for her personal expenses (petrol, car park fees, maintenance of car, bodyline slimming course, clothes/shoes/accessories, cosmetics, hair/manicure/pedicure, entertainment, gifts (weddings/birthdays), \$200 for medical expenses, \$1,000 for overseas travel and \$200 for her parents' pocket money.

12 The wife justified her high expenditure on the basis that throughout her marriage, she was used to eating high quality restaurant food, for which on the average she spent \$30 to \$50 per meal once a week. She spent on average \$100 on petrol every five days and was accustomed to shopping regularly, spending on average \$800 per month on branded goods. She incurred car parking fees of \$150 at hotels and restaurants that she frequented. Further, the wife claimed, she had spent \$3,000 on one year's bodyline slimming course for which she attended at least one session every week. The wife deposed she had her own circle of female friends with whom she spent one to two evenings

every week at coffee clubs; she also went to the cinemas regularly.

13 As she wanted B to join A to study in the United States, the wife deposed she would be travelling more frequently to America and required on average \$12,000 a year for airfare alone. After the Property was sold (which was one of her prayers), she would not be buying an alternative property immediately but would live in the United States while her children studied there. She would therefore need US\$2,000 per month to rent accommodation for the period A and B studied there, which she estimated to be seven to eight years in the case of B.

14 In addition, the wife wanted \$32,576.44 or US\$19,276 and \$26,801 or US\$15,859 as monthly maintenance sums for A (aged 17) and B (aged 14) respectively. She claimed that the husband had agreed to allow the two daughters to further their studies in the United States to which intent and purpose she had taken them to California in May 2005 (for a month), with the husband's blessings, to look at schools there.

15 The wife deposed that the couple had "upgraded" from an executive Housing and Development Board ("HDB") flat at Pasir Ris to a terrace house at Elias Road ("the Elias Road property") before buying the Property. She claimed that the husband made a net profit of \$100,000 when the HDB flat was sold and another \$300,000 profit when the Elias Road property was sold for \$1m in 1996/97. She received no share of the profits despite the fact that she had used her CPF savings for both the HDB flat and the Elias Road property. The husband used first the profits from the HDB flat to pay for the Elias Road property and later the \$300,000 from the Elias Road property to pay for the Property in 1993 when it was purchased for \$1.31m. In her third affidavit filed herein, the wife demanded that the husband account for the profits he made from selling the HDB flat and the Elias Road property.

16 The wife claimed 50% of all the husband's assets, including the car and another Mercedes Benz, the businesses of EAF and TFI as well as two units of industrial properties owned by TFI at Eunus Techno Link and Pasir Ris Industrial Park valued at \$400,000. The wife further claimed 30% of the husband's CPF savings, 70% of the value of the Property, 50% of the value of the husband's memberships in Raffles Town Club, Chinese Swimming Club and Warren Golf and Country Club and 50% of the husband's business in another company, GL. The wife also wanted the husband to pay her director's fees from 1 January 1997 to April 2004, for her directorship in TFI.

17 As for maintenance, she asked for \$8,395 per month for herself claiming that the husband's payment of \$2,800 per month (which sum she described as "petty" and "miserly") by an order of court dated 24 March 2005 was only an interim measure that she accepted, pending the hearing of ancillaries. Moreover, she would be living in California where the cost of living would be higher than Singapore.

18 The wife requested a separate sum of \$8,344 per month for the maintenance of A and B whose custody she wanted.

The husband's assets, liabilities and expenses

19 The husband, who is 48 years of age, disputed the wife's affidavit of means and her claims. In his first affidavit of means, the husband deposed that when he first met the wife in 1979, she was schooling while he was helping out in his family's fishery business. He denied that marriage to him put paid to the wife's plans to further her studies; she was not interested in studying. He said he was a responsible father who had never neglected the needs of any of his four children. He had paid for the education of the eldest child at London School of Economics, University of London, and of the second

child at the University of California. Although the eldest child was 24 years of age and was already working in a local bank, he still supported her and had purchased a motor vehicle for her which hire-purchase instalments he bore together with the expenses relating to road tax, insurance, maintenance and repairs. He was similarly supporting the second child who had enlisted in national service after completing his degree course. That included paying his club membership with the Chinese Swimming Club.

20 The husband revealed that A was studying in a local secondary school when she left for the United States with the wife and B in May 2005. The trip was not (as the wife claimed) to source for suitable schools for the two daughters but to attend the second child's graduation ceremony which he also attended. Although he wanted A and B to complete their "N" level and "O" level examinations respectively in Singapore before going abroad, they told the husband they wanted to study overseas, particularly in the United States, where the wife's sister resided.

21 Of late, the wife requested the husband to apply for permanent residency for her in America (green card status) so that A and B would pay cheaper school fees and it would be easier for them to become immigrants and find employment in the United States subsequently. To that end, the husband said he paid US\$20,000 to an American lawyer for the green card application for the wife.

22 The husband did not deny the wife's assertions relating to his businesses or to his means but disputed her contributions to either. In so far as the businesses were concerned, the husband pointed out that SAN (of which he was the manager) was a sole-proprietorship of TFI. Although SAN was a live business on record, it had no value and the husband derived no income therefrom. SAN was the husband's father's business before the latter retired.

23 Similarly, TFA had no value, he derived no income therefrom and the company was struck off on 20 November 1999, according to the records maintained with the Accounting and Corporate Regulatory Authority ("ACRA").

24 As for EAF, the husband similarly claimed he received no income from the partnership as it was no longer doing any business. He alleged (which the wife admitted in her second affidavit) that the wife withdrew a total of \$28,000 from the bank account of EAF on two occasions in December 2004 and had not complied with his solicitors' demands to repay the sum.

25 In the case of TFI, the husband disclosed he was paid a gross monthly salary of \$12,000 by the company which, after CPF deductions, gave him a net pay of \$10,500. (In the submissions of his counsel, the husband's monthly income was revised to \$15,000 a month based on the husband's income tax assessments for the years 2000 to 2004, although his monthly salary of \$12,000 was also reflected in those assessments). The husband alleged that the company had been making losses for the past three years and produced audited accounts filed with ACRA to support his claim.

26 The husband listed his assets as follows:

- (a) the Property which was purchased in the couple's joint names partly with a secured loan of \$1m from Standard Chartered Bank ("the SCB loan") and partly by \$440,332.55 withdrawn from his CPF savings (the husband had fully repaid the SCB loan);
- (b) the Car (purchased in 2003 for about \$208,000) which was used exclusively by the wife although the hire-purchase instalments and all the expenses of its upkeep and maintenance were borne by him;

(c) another Mercedes Benz vehicle ("the second car") which the husband purchased in 2001 for about \$300,000 with a loan of \$150,000; the hire-purchase instalments had been fully paid by the husband who also paid all the expenses for the second car's upkeep;

(d) two life insurance policies taken out with NTUC Income for a total insured sum of \$150,000 which beneficiaries were his estate and his family;

(e) numerous bank accounts with amounts totalling \$1,016,128.61;

(f) CPF savings of \$57,590.19, \$30,940 and \$56,606.55 in his ordinary, medisave and special accounts respectively; and

(g) memberships of the Warren Country Club and Chinese Swimming Club worth \$15,000 each, as well as membership of the Raffles Town Club which had no value.

27 The husband listed his monthly liabilities/expenses as follows:

(a) his personal expenses totalling \$5,857.35;

(b) children's expenses totalling \$2,723.21;

(c) household expenses (maid's salary/levy, upkeep of three dogs) totalling \$1,450;

(d) maintenance of aged parents at \$1,300.00;

(e) maintenance of the wife by an order of court at \$2,800 and the Car at \$2,446.82.

28 The husband claimed to have spent \$250,000 on renovating, furnishing and landscaping the Property. He wanted the Property to be sold and the sale proceeds (less refund of CPF savings utilised by both parties in its purchase including interest accrued thereon) divided between the parties in the ratio of 20% and 80% in favour of the wife and the husband respectively.

29 The husband requested for sole custody, care and control of the two younger daughters with reasonable access to the wife; the children were attached to him and he had provided for all their needs since young.

30 As for the wife's maintenance, the husband offered \$1,200 on the basis that the wife did not suffer from any disability or ill health and should be able to find gainful employment to supplement the amount.

31 The husband asserted that the wife was not entitled to any share of the moneys in his bank accounts – she had not contributed towards their acquisition and the moneys were all his hard-earned savings or came from his inheritance from his father and family. He alleged the wife had failed to disclose a fixed deposit and savings account that she had, in the sums of \$5,996.15 and \$5,526.31 respectively. He contended her bank balances approximated \$50,000, more than double what she had deposited to in [9] above.

The other affidavits

32 In her reply affidavit, the wife objected to the husband having sole custody of A and B; she wanted their sole custody, care and control. She repeated their desire to be educated in the United

States and reiterated that the husband had previously acceded to their wishes.

33 As observed earlier (at [23]), the wife did not deny withdrawing from the bank account of EAF and refusing to return \$28,000. She could not understand why the husband was making a hue and cry over the withdrawal which she justified on the basis that the husband himself had withdrawn \$60,000 from the same account (which figure she subsequently revised to \$108,643.12). As an authorised signatory of the bank account and as a partner of EAF, she contended she was entitled to half of the moneys of the business in any event. Two other reasons given by the wife for her withdrawal was the fact that the husband had not reimbursed her \$11,000 odd for the expenses she incurred with the children for a trip to Korea and he had failed to maintain her for a long time. The wife demanded that the husband pay her half (\$30,000) of the sum he had withdrawn. He had also failed to produce the bank statements of EAF.

34 Even if I were to accede to the wife's demand (which I did not) the wife had obviously forgotten to take into account her own withdrawal. An equal division of \$88,000 (\$28,000 + \$60,000) meant the wife was only entitled to \$16,000 ($\$88,000 \div 2 = \$44,000 - \$28,000$) and not a total of \$58,000 (\$28,000 + \$30,000) that she had demanded.

35 The wife alleged that the husband had dissipated approximately \$2.7m cash from his bank accounts since the divorce proceedings in June 2004. She further alleged that the husband had failed to declare \$649,349.95 according to the documents in her possession which (contrary to his allegation) she did not take from his personal drawer but found at the premises of TFI. She repeated her earlier contention (at [8] above) that the husband had cash and time deposits in excess of \$5m but had only declared \$2.6m thereof. He had conveniently not accounted for a sum in excess of \$3m.

36 The wife said the husband had also failed to disclose the value of his business in GL and the two industrial park properties (see [16] above).

37 The wife accused the husband of lying in his assertion that she made no contribution towards the purchase of the Property. She claimed she paid (as of 19 July 2005) \$121,167.93 (inclusive of interest) towards its purchase price in 1993. In addition, she had contributed towards the purchase of the first matrimonial home of the HDB flat at Pasir Ris as her June 1992 CPF statement showed a deduction of \$20,000 for "house" while her June 1993 CPF statement showed a deduction of \$4,100 for the same item.

38 The wife also disputed the husband's claim he had been a responsible father to the children, pointing out that he was seldom home for dinner as he had his outside activities in the evening. In fact, he neglected the children and only provided for them financially. She denied his allegation that maids, not she, took care of the children. The maid(s) performed household duties under her supervision.

39 The wife claimed the husband earned \$16,000 a month but disputed his monthly expenses, saying \$3,300 thereof was not justified. If the husband was willing to pay the outstanding hire-purchase instalments and continue to pay the road tax and insurance of the Car, she was agreeable to its transfer to her name.

40 The wife disputed the husband's contention that his cash and savings were not matrimonial assets, pointing out that he used the profits from TFI (in which she played an important role) and other fishery businesses for his investments during the subsistence of the marriage.

41 In her third and final affidavit filed for these proceedings, the wife denied the husband's

allegation that she worked freelance on a part-time basis for an American company (Amway) involved in pyramid selling and telemarketing allegedly earning therefrom \$2,000 to \$3,000 per month. She claimed she distributed Amway's products in an attempt to be "self-sufficient". The wife denied she had been a lazy employee of TFI, claiming that she worked seven days a week in the company between 1994 and 2003 and it was only in 2003 that she started taking alternate Sundays off.

42 It would not be necessary to address the husband's second affidavit in any detail. Suffice it to say that I had expunged therefrom (at the request of counsel for the wife) a number of paragraphs which dwelt at length with the wife's allegedly adulterous behaviour during the subsistence of the marriage. Even if the allegations were true, they would only serve to cloud the issues and were not relevant in my determination of the ancillaries.

The decision

Maintenance

43 On the undisputed facts as extracted from the affidavits, I was not persuaded that the wife (as she repeatedly claimed) led a "lavish lifestyle throughout the subsistence of the marriage" (according to her affidavit). That would not have been possible given each party's modest circumstances at the time of the marriage back in 1982, the wife's then status as a student and that the husband's family fishery (successful) business in TFI was only started 12 years later in 1994. The couple did not even purchase the HDB flat until 1988. For the first six years after their marriage, they lived at various addresses, presumably either at rented accommodation or with one or both sets of parents. Neither the husband nor the wife had the social and/or educational background to lead a life of luxury, even if the husband in very recent times may have had the means to adopt such a lifestyle; I entertained some doubts on that given his (undisputed) obligations and liabilities.

44 I am certain that both sides exaggerated, if not grossly inflated, their monthly expenses (more so in the case of the wife) and underplayed their assets. In the case of the wife, a more realistic sum for her own monthly expenses would be \$2,500 as her claims relating to food, petrol, car-parking charges, clothes and other accessories, personal grooming, entertainment, utilities charges, groceries and travel were grossly excessive. Insurance premiums, allowances for one's parents and body-slimming courses do not count as maintenance necessities and are accordingly to be disregarded. Further, medical expenses of \$200 per month are absurd as a person does not fall ill with regularity.

45 As the husband was paying the wife monthly maintenance of \$2,800 which amount I felt was more than adequate for her legitimate expenses, I increased the amount by \$800 to take care of three items of expenses which the wife would henceforth have to bear, following upon the orders I made. The expenses related to the upkeep of the Car which I had directed the husband to transfer to the wife's name, clear of hire-purchase obligations. The wife had claimed \$600 for petrol and \$150 for car-parking fees when a more reasonable sum for both items should/would be \$300 per month. That meant that the interim maintenance order of \$2,800 was clearly sufficient for her needs. However, in the event the wife still encountered a shortfall (due primarily to increase in petrol prices) and in the event the Car needed repairs occasionally, I awarded her a "buffer" sum of another \$800 (\$2,500 + \$300 + \$800) which sum would also take care of road tax and insurance payments.

46 It was the wife's own admission that the Car was purchased by the husband in January 2003 (for \$208,000). A three-year-old car was unlikely to require repairs (save for damage due to accidents) but only periodic servicing.

47 As in the case of the wife, I had heavily discounted the husband's expenses (see [27] above) and disregarded certain expenses, including the allowances he gave his parents, the alleged expense to maintain three dogs, his purported donations to temples, community centres and school advisory council as well as offerings to deities. The sums I allowed were reduced to \$2,800 which figures excluded the wife's maintenance of \$2,800, the hire-purchase instalments and upkeep of the car (\$2,446.82), the children's expenses (reduced by half to \$1,361) and one maid's salary and levy (\$650). When these items were added onto \$2,800, the husband's monthly expenses increased to \$10,057.82. The wife cannot complain that the sum of \$2,800 allowed for the husband's expenses was excessive when it was her own case that the same amount was inadequate for her maintenance.

48 In arriving at the maintenance sum for the wife, I was mindful of the guidelines set out in s 114(1) of the Women's Charter (Cap 353, 1997 Ed Rev) ("the Act"), particularly those set out in sub-paras (a) to (d) and (f).

Division of matrimonial assets

49 The wife had estimated the car's current market value at \$130,000. By my order in [1(c)] above directing that the car be transferred to her, the wife received in effect another \$130,000 which, added to the other sums of \$300,000, \$515,000 and \$50,000 from the husband's CPF savings I had awarded her in [1(a)], [1(d)] and [1(j)], gave her a total of \$995,000. Additionally, the wife had withdrawn \$28,000 from the bank account of TFA, thereby increasing her share to \$1,023,000. She had already taken cash of \$28,000 and would receive further cash of \$787,000 (\$815,000 less \$28,000) to be followed by \$50,000 from his CPF savings, when the husband attains 55 years of age in 2013.

50 I turn now to the issue of the wife's alleged indirect contributions towards the husband's businesses, in particular TFA, EAF and TFI. Leaving aside the modest salary she earned from TFA of \$300 in 1984, the wife herself claimed, and which I accepted, that she was paid a reasonable salary by TFI, starting with \$2,500 in 1994 and ending with \$2,800 by the time she left the company on 30 November 2004. Indeed, the husband alleged that after her departure from TFI, the company continued to pay her a salary of \$2,240 until she received the court-ordered maintenance of \$2,800 per month. The wife therefore would have received in the region of \$30,000 to \$33,600 per annum during the period of her employment, or in excess of \$300,000 for her ten years' employment with TFI.

51 I would add that the wife did not provide one iota of evidence to support her contention that she was dismissed from the services of TFI. I was more inclined in this regard to believe the husband's assertion that she resigned in a huff on 29 November 2004 when he remonstrated with her over refusing to ferry the staff to work for two weeks.

52 There was no basis to award any further sums to the wife as her *indirect* contributions, in addition to what she received from the various businesses *directly*, by way of salaries as an employee. The wife cannot expect the court to double count her contributions. In her case, it was either direct or indirect contributions. It was not both for the reason that she had not satisfied me that she was instrumental in the success of TFI or had in some way contributed towards the growth of this or the husband's other family businesses over and above her duties as an employee, under s 112(10)(a)(ii) of the Act. In fact, the wife did not dispute or in any way rebut the husband's evidence that he received no income from SAN, TFA and EAF and that these businesses were either dormant or had no value. Her position was a far cry from that of the petitioner in *Koh Kim Lan Angela v Choong Kian Haw* [1994] 1 SLR 22, a case cited by her counsel. There, the Court of Appeal found that the petitioner/wife had contributed towards the boutique business owned by the respondent/husband and his family.

53 As for the wife's allegation that the husband or TFI had failed to pay her director's fees between 1 January 1997 and 30 November 2004, this was not a claim *vis-à-vis* the matrimonial assets. Her claim, if any, should be directed to the company. In any event, the husband denied she was not paid her dues as a director.

54 As for the Property (which had been the matrimonial home for 11 years from 1993 to 2004) it was not in dispute that the husband had utilised a principal sum of \$440,332.55 from his CPF savings for the purchase as against the wife's CPF contributions of \$94,200. I have ignored the husband's claim that he serviced and fully paid the SCB loan for the reason that he produced no documents to support either the amount or his repayment of the same. I further disregarded the husband's claim he had spent another \$250,000 on the Property as there was also no evidence to support this bare assertion.

55 The Property is currently worth \$1.2 to \$1.3m. The wife's contribution based on her CPF withdrawals alone amounted to 7.19% of the original purchase price of \$1.31m as against the husband's CPF contribution of 33.6% (leaving aside the disputed SCB loan).

56 By awarding the wife \$300,000 thereof, I had given her in effect 23% share in the Property, which was far in excess of her actual contribution of 7.19% rounded up to 8%. It was more than the husband's offer to her of 20%. The additional share (15%) I awarded to the wife was to recognise her other role as the main caregiver of the children and as a homemaker, notwithstanding the fact she was employed on a fulltime basis first by TFA and then by TFI, between 1984 and 30 November 2004.

57 The wife had complained that the husband had not given her a share of, or accounted to her for, the profits he allegedly made when he sold the first and second matrimonial homes, *viz* the HDB flat and the Elias Road property. The husband's explanation was that he ploughed the HDB flat profits first into the Elias Road property and then into the Property, in which her name was included as joint owner. I do not see how it can be said that the husband had not given her a share of the sale proceeds from the two earlier matrimonial homes. Assuming the wife's complaint was true and the husband did make profits of \$100,000 and \$300,000 respectively from selling those two matrimonial homes, 50% of \$400,000 would amount to \$200,000. If that was added onto the wife's direct contribution of \$94,200 towards the purchase price of the Property, her percentage of contribution went up to 22% against my award to her of 23%. However, so too would the husband's contribution; adding \$200,000 to \$440,332.55 increased his share to 48.9%. The wife's claim to 70% of the sale proceeds of the Property was therefore excessive and disproportionate to her actual contribution.

58 I rejected the wife's claims for a half share in GL; this was a non-profit organisation registered as a sole proprietorship by the husband; it was only a social activity with no commercial value or income.

59 The wife's claims to 50% share in the two industrial properties were unreasonable and unjustified, given the fact she did not claim to have made any direct or indirect contribution towards their purchase and my earlier observation in [51] above of the danger of double counting her contribution towards the business of TFI. The Pasir Ris Industrial Park property, in any case, did not belong to TFI as it was leased from the Singapore Land Office for \$40,000 a year.

60 I shall now deal with the wife's claim to 50% of the husband's cash assets. She claimed her computation showed he had at least \$5m in numerous bank accounts. The husband on the other hand declared he had \$1,016,128.61 in his bank accounts. Disbelieving the husband's declared cash, the wife had applied by Summons No 2485 of 2006 for discovery ("the discovery application") of the husband's bank documents from five bank accounts for the period June 2004 to June 2005. The bank

statements and other documents he produced from three banks in compliance with the order of court (dated 5 April 2006) did not support the wife's contention that the husband had dissipated his assets.

61 It would be necessary for me to elaborate on the above paragraph in greater detail because at the hearing before me, counsel for the wife again repeated his client's complaint that the husband had dissipated his cash in the banks, contending that the husband had failed to give a satisfactory explanation for the discrepancy between the wife's higher, and his lower, figures.

62 It is noteworthy that in her affidavit of means^[note: 1] the wife disclosed she already had information on the following bank accounts:

- (a) SCB account, time deposit account and investment account;
- (b) OCBC Bank deposit account, Easisave account, savings account and time deposit account;
- (c) four DBS Bank accounts;
- (d) Citibank Citigold account;
- (e) United Overseas Bank ("UOB") savings account and an investment account;
- (f) Maybank current account.

63 The wife had alleged in her affidavit filed in support of the discovery application that the husband had dissipated the following sums of money:

S/No	Name of Bank and Account	Balance as of 31 May 2004	Balance as of 31 Aug 2005	Difference
1.	DBS Autosave account	\$1,227,771.08	\$489,855.00	\$737,916.08
2.	Maybank account	\$351,089.07	\$63,668.60	\$287,420.47
3.	OCBC time deposit account	\$58,313.03		
4.	UOB savings account	\$559,762.63	\$82,529.00	\$477,233.63
5.	OCBC savings account	\$478,270.51	\$78,948.79	\$399,321.72

64 The husband refuted the wife's allegations in his reply affidavit. Relying on the bank statements which the wife herself had disclosed in her affidavit of means, he gave the following figures as the balances in the DBS Autosave account:

31 May 2004

30 June 2005

30 November 2005

\$613,258.96

\$69,574.73

\$243,337.42

As for the Maybank account, the husband said the correct balance as of 31 May 2004 was \$341,089.07 and not \$351,089.07.

65 The wife's requests for discovery were sometimes absurd and showed her lack of understanding and/or misreading of banking documents. As an example I refer to the husband's OCBC fixed deposit account. This fixed deposit had a sum of \$58,313.03 plus interest of \$768.72, totalling \$59,081.75, which latter sum the husband withdrew subsequently after which the account was closed. A fixed deposit account would not have monthly statements that the wife insisted on the husband producing. As the decree *nisi* was granted on 3 May 2005, the wife was not entitled to and should not have been granted discovery of the husband's bank accounts up to June 2005 let alone August 2005.

66 It was naïve of the wife to expect the balances in all the husband's bank accounts to remain static. The husband's salary from TFI was clearly insufficient to pay for all the expenses (see [47] above) I had accepted as reasonable; I had omitted the cost of his funding the overseas tertiary education of the three eldest children. Where did the wife expect the shortfall in expenses *vis-à-vis* his salary to be covered from if not from the husband's savings? It did not lie in the wife's mouth to complain that the husband's savings had been depleted (not dissipated) when it was her own position that the family led a lavish life and wanted for nothing during the subsistence of the marriage. I should add that the bank statements produced by the wife and/or disclosed by the husband of the accounts did not support the balances that the wife claimed in [63] above.

67 I had given the wife more than 50% of the husband's savings, based on \$1,016,128.61. My award to her of \$550,000 equated to 54%.

68 From the date of marriage (10 July 1982) until the wife's filing of the divorce petition on 14 August 2004, the parties had been married for about 16 years. The period of cohabitation was actually 15½ years as the parties had stayed in separate rooms since February 2004. For the length of the marriage, I had, in awarding the wife \$1,023,000, in effect given her 36% of the *husband's* assets, not just the *matrimonial* assets, based on the following items:

(a)	the Property	\$1,300,000.00
(b)	CPF savings (\$57,590.19 in his ordinary account plus \$440,332.55)	497,912.74
(c)	cash in the bank	1,016,128.61
(d)	memberships of Warren and Chinese Swimming Clubs (\$15,000 x 2)	<u>30,000.00</u>
	Total:	<u>\$2,844,041.35</u>

69 I had excluded from my computation the two vehicles. Since the husband was required to transfer the Car to the wife free of all liabilities including hire-purchase instalments, he was entitled to retain the second car for his own use and the latter should not come into the equation.

70 I had further excluded from my calculations the insurance policies (see [25(d)] above) taken out by the husband for the reason that those were policies under s 73 of the Conveyancing and Law of Property Act (Cap 61, 1994 Rev Ed). The policies created a trust in favour of the beneficiaries of the husband's estate and the court could not divest the beneficiaries' interest.

71 I had also excluded the wife's own assets from my computation. These included her cash in the banks (\$50,000) and her own CPF savings (\$49,354.41 in her ordinary account) excluding the sum (\$94,200) used to purchase the Property, as well as the insurance policies she had taken out in the children's names. In allowing her to retain her own assets, the wife's cash component of the matrimonial assets increased to \$1,216,554.41 (\$1,023,000+\$50,000 +\$49,354.41 +\$94,200).

72 The wife had requested 30% share of the husband's CPF savings in his ordinary account, viz \$497,922.74 (\$57,590.19 + \$440,332.55), which would have amounted to \$149,376.82. The \$50,000 I awarded to her equated to 10% of the husband's CPF savings. I did not think she was entitled to more in the overall computation.

73 At this juncture I should point out that I disbelieved the wife's explanation that she worked for Amway in order to be "self-sufficient"; that was not the point. What was in issue was that, contrary to her claim, she could and did find employment and she earned or could earn a salary that was \$2,000 to \$3,000 a month. She did not challenge these figures put forward by the husband. I was of the view that the wife had been less than candid in her affidavit of means.

74 The wife's demand for the husband to sell his club memberships showed her complete disregard of his business interests. The fact that she did not frequent or use the facilities of the clubs did not mean that the husband was obliged to sell the memberships; selling the membership of the Raffles Town Club (with its attendant bad publicity due to court cases) would have meant his incurring a loss. Her unreasonable demands extended to a request that the husband pay her 50% of the bond provided to the Ministry of Defence to guarantee the second child's return to Singapore to fulfil his national service obligations. (The husband had explained that no cash bond was furnished but only a guarantee).

Care and control of the two youngest daughters

75 As a result of the wife's taking A and B to the United States in May 2005 and not bringing B back in time to continue her studies in Singapore, B lost half a year of schooling and would have to repeat her Secondary 1 education next year. I expressed my disapproval of the wife's conduct. In her zest, if not obsession, to emigrate to the United States to join her sister, the wife had completely disregarded the interests of both A and B, more so in the case of the latter.

76 After hearing me voice my displeasure over her client's conduct, counsel for the wife reverted to say he was instructed to inform the court that the wife would not be moving to the United States until after B had completed her secondary education in Singapore. This statement was of little comfort to me as there was no assurance that the wife would adhere to her word. There was nothing to stop the wife from taking B to California again if the court awarded her care and control of this daughter as she had (joint) custody of B; I did not want to take the risk.

77 As she shared custody of B with the husband, the wife would have equal say on this daughter's education and future, but the husband would have care and control over the 14-year-old. Whenever the wife was in Singapore, she could have access to B. My view was that it was not in B's interest to be taken to and educated in the United States at this point in time. It was vital that B studied in Singapore until she completed her "O" level examinations.

78 Unfortunately, in the case of A, the court could not turn the clock back. She had been taken by the wife to the United States and placed in an American school. It would too disruptive altogether to take her out of that environment and bring her back to Singapore. I noted too that A appeared to be academically less able than B. Hence, the American system of education may well suit her better. Although the husband initially objected, he eventually agreed to allow A to continue her studies in the United States and to bear the expenses therefor. Hence I made the order in [1(h)] above.

Conclusion

79 Division of matrimonial assets is not and is never an exact science. The court can only attempt to make a just and equitable division, applying a broad-brush approach, bearing in mind the factors set out in s 112(2) of the Act. No two cases on ancillary matters are alike in their facts. Consequently, precedent cases cited by the parties can only serve as a guideline and cannot be applied blindly. I awarded to the wife what I thought was a just and equitable portion of the husband's assets leaving her own assets untouched. Her claim to 50% of the husband's assets, not the matrimonial assets (which would include her own assets), was neither fair nor equitable to the husband. The husband's contention that the wife was not entitled to any share of his cash assets was equally unreasonable.

80 I further awarded to the wife by way of monthly maintenance a sum which was adequate for the standard of living she had been accustomed to *in recent years*, during the subsistence of the marriage, after the husband's family business of TFI had prospered.

[\[note: 1\]](#) Para 17(14) at p 15.

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