

TV v TW  
[2007] SGHC 113

**Case Number** : DT 3079/2004  
**Decision Date** : 17 July 2007  
**Tribunal/Court** : High Court  
**Coram** : Woo Bih Li J  
**Counsel Name(s)** : Yap Teong Liang (T L Yap & Associates) for the Petitioner; Luna Yap (Luna Yap & Co) for the Respondent  
**Parties** : TV — TW

**[EDITORIAL NOTE: The details of this judgment have been changed to comply with the Children and Young Persons Act and/or the Women's Charter]**

17 July 2007

Woo Bih Li J:

**Background**

1 The Petitioner ("the Wife") and the Respondent ("the Husband") were married on 29 May 2000. They were born in July 1976 and November 1971 respectively. They have three children:

- (a) a daughter born in December 2000;
- (b) a son born in December 2001; and
- (c) a son born in March 2004.

2 On 3 June 2004, the Wife left the Husband with the three children after a quarrel in which the Husband slapped her.

3 On 28 July 2004, the Wife filed a divorce petition on the ground that the marriage had broken down irretrievably in that the Husband had behaved in such a way that she could not reasonably be expected to live with him. The Wife and the Husband were then 27 and 32 years of age respectively. The Husband did not contest the petition and a decree nisi was granted on 12 November 2004.

4 In the meantime, on 23 August 2004, the Wife filed SUM 14297/2004 for interim maintenance for herself and the children. On 8 October 2004, an interim order was made ordering the Husband to pay \$1,000 per month as interim monthly maintenance for the Wife and the children pending the full hearing of the application for interim maintenance.

5 On 25 January 2005, SUM 14297/2004 was heard by District Judge ("DJ") May Loh who reserved her decision. On 3 March 2005, the Husband filed SUM 3262/2005 to vary the 8 October 2004 order pending a decision by DJ May Loh. I was informed that the Husband withdrew this application because DJ May Loh gave her decision on 25 April 2005. She found the children's and the Wife's expenses to be \$2,335 and \$2,691 per month respectively and ordered the Husband to pay 80% of the total, being \$4,020.80 per month, with effect from 8 May 2005 and to pay costs for SUM 14297/2004 and SUM 3262/2005.

6 The Husband filed an appeal on 3 May 2005 in RAS 23/2005 against the 25 April 2005 order. In turn, the Wife filed an appeal on 6 May 2005 in RAS 26/2005 against the same order as the Wife wanted that order to be with retrospective effect from August or October 2004. Both appeals were heard by Justice Andrew Phang who dismissed the appeals on 6 July 2005.

7 On 27 July 2005, the Husband filed SUM 11845/2005 to vary DJ May Loh's order of 25 April 2005. His application was heard on 19 August 2005 by DJ Jocelyn Ong. She dismissed his application on 13 September 2005 with costs against him.

8 On 20 September 2005, the Husband filed an appeal RAS 70/2005 against DJ Jocelyn Ong's order. His appeal was heard on 26 October 2005 by Justice Judith Prakash who dismissed his appeal with costs against him.

9 On 23 December 2005, the Husband filed a second application in SUM 19998/2005 again to vary DJ May Loh's order of 25 April 2005. The Wife and the Husband then agreed that the Husband need pay only \$1,200 per month from January 2006 without prejudice to their respective rights pending the hearing of the ancillaries and an order in terms of their agreement was made on or about 18 January 2006 by DJ Carol Ling.

10 The ancillaries came on for hearing before me between January and June 2007. The following were issues under the ancillaries:

- (a) Division of matrimonial assets;
- (b) Maintenance for the Wife and the children; and
- (c) Custody of and the extent of the Husband's access to the three children.

Summons 19998/2005 had not yet been withdrawn but was academic as the ancillaries I was dealing with already covered maintenance.

### **Division of matrimonial assets**

11 According to para 11 of the Wife's affidavit filed on 23 August 2004, the couple had lived in five different homes in Singapore after the marriage:

- (a) a flat at Bayshore (owned by the Husband and his parents) from June 2000 to October 2000;
- (b) a flat at Yishun ("the Yishun matrimonial home") from October 2000 to September 2001. The Yishun matrimonial home was registered in the names of the Husband and Wife;
- (c) a house at Jalan Kuak from September 2001 to July 2002. This property was registered in the names of the Husband, the Wife and the Husband's mother;
- (d) a house at Joo Chiat Terrace from about August 2002 to February 2004. This property was registered in the names of the Husband and the Wife as tenants in common having an 80% and 20% interest respectively;
- (e) a flat at Bukit Regency ("the Bukit Regency matrimonial home") from February 2004 to the time the Wife moved out in June 2004. This property was registered in the names of the Husband

and the Wife as tenants in common having an 80% and 20% interest respectively.

12 Each of the above five properties has been sold and there is some dispute relating only to two of them, ie the Yishun matrimonial home and the Bukit Regency matrimonial home.

### ***The Yishun matrimonial home***

13 For the Yishun matrimonial home, there is no profit from the purchase and sale. Withdrawals from the parties' Central Provident Fund ("CPF") accounts to finance the purchase have been reimbursed either fully or partially. There was a shortfall of \$7,017.81 being \$1,371.81 payable to the Housing & Development Board ("HDB") and \$5,646 for penalty fees imposed by the HDB for late payment of mortgage instalments. The Husband asserted that he bore the shortfall and submitted that the Wife should bear half of the \$7,017.81 because both parties were under a shared duty to maintain the matrimonial home until its division had been adjudicated upon. For this proposition, the Husband relied on *Foo Tee Sey v Loy Hui Eng* [2001] 4 SLR 256 at pg 259.

14 The Wife submitted that she should not bear any part of the shortfall because (a) the Husband was responsible for paying the monthly mortgage instalments and (b) the Husband had moved back into the Yishun matrimonial home for a while with his family and girlfriend. Had the Husband continued to pay the mortgage instalments there would have been no penalty.

15 The Husband said he had to shoulder the mortgage payments because of the Wife's selfish attitude. He accepted that he and his mother and brother had moved into the Yishun matrimonial home in December 2005. It was sold by the time of his affidavit filed on 13 October 2006 with the completion date scheduled for 23 November 2006.

16 The Wife paid \$23,292.80 and the Husband paid \$21,723 for the acquisition of the Yishun matrimonial home. In the circumstances and bearing in mind that the Husband and his family have had the benefit of staying there for a number of months while the Wife and the children were staying with her parents at Jalan Isnin ("the Jalan Isnin property") after she moved out of the Yishun matrimonial home, I am of the view that he is to bear the entire shortfall of \$7,017.81.

### ***The Bukit Regency matrimonial home***

17 The other dispute in relation to the above five properties is in relation to the Bukit Regency matrimonial home. After reimbursement to the parties' respective CPF accounts, there is a surplus of \$7,563.96 held by the Husband's solicitors. The Wife claimed 20% of the surplus and submitted that the Husband's 80% share should be used to pay costs of various matrimonial proceedings owing to her by the Husband. The basis of the Wife's claim was that she held a 20% interest in the Bukit Regency matrimonial home even though she contributed less than 20% directly to its purchase. She contributed about \$3,400 from her CPF account while the Husband contributed \$75,488.66 from his CPF account. He also claimed that he contributed \$6,549.06 in cash (see para 17 of his submission of 31 January 2007). The Husband however received \$1,300 a month as rent from this property for about six months from 3 March 2005 to 15 September 2005.

18 Initially, the Husband suggested in para 26 of his affidavit filed on 14 December 2005 that the surplus from the sale (then believed to be about \$20,000) be divided according to the parties' respective financial contributions. In submissions before me, the Husband's position was that the Wife should not be entitled to any part of the surplus as she had abandoned the Bukit Regency matrimonial home, leaving it to the Husband to re-finance the mortgage and look for a buyer.

19 I am of the view that it would be inequitable to say that the Wife should not be entitled to any part of the surplus. Taking into account the parties' direct financial contributions and the Husband's retention of the rent and the Wife's non-financial contribution, which I shall elaborate on later when I deal with the issue of maintenance, I allow the Wife 15% of \$7,563.96. The Husband's 85% share is to be used to pay whatever costs he owes her and the balance, if any, is to be paid to him.

20 However, there were claims in relation to other real property which the parties did not reside in, as well as to one other asset. I shall deal first with the other real property.

### ***The second Joo Chiat Terrace house***

21 After the Wife had left the Bukit Regency matrimonial home and had filed the divorce petition and after she had filed the application for interim maintenance, the Husband purchased another house at Joo Chiat Terrace ("the second Joo Chiat Terrace house") in August 2004 in his sole name for \$400,000. This property was sold in or about November 2005 for \$575,000. The Husband said he sold the property because he had lost his job and could not meet the mortgage payments. In my view, it could be that he sold it to take profit. In any event, whatever his reason for selling it, he did have some surplus from the sale.

22 The Wife claimed that the surplus was \$128,710.89. She was prepared to accept \$7,046.95 as legitimate expenses for legal fees and the estate agent's commission, leaving a balance of \$121,663.94. The Husband claimed that he had to use most of the balance to make various payments to creditors leaving himself with \$9,351.20. The Wife disputed the legitimacy of the payments. In para 5 of her affidavit filed on 16 October 2006, she identified disputed payments amounting to \$83,347.62. These included payments to his girlfriend, mother, brother, cousin and other individuals whom he described as close friends of his family. In para 6 of her same affidavit, the Wife also disputed the basis of yet other payments such as a payment of \$25,000 to X Pte Ltd ("XPL").

23 The first question is whether the balance of \$121,663.94 should be subject to division at all. The Wife submitted that this sum was part of matrimonial assets under the definition of "matrimonial asset" in s 112 (10) of the Women's Charter (Cap 353, 1997 Rev Ed) ("Women's Charter") because a marriage is only dissolved when the decree absolute is made, see *Yeo Gim Tong Michael v Tianzon* [1996] 2 SLR 1. The Wife claimed 50% of this sum because of her non-financial contributions in looking after three young children even though the marriage lasted for about four years only.

24 On the other hand, the Husband submitted that the Wife should not get any part of the balance because this property was acquired by the Husband after the marriage had broken down even though the decree absolute had not yet been made. The Husband also submitted that most of the balance had been used to make various payments, as I have already mentioned.

25 In *Ong Boon Huat Samuel v Chan Mei Lan Kristine* [2007] SGCA 19 ("*Samuel Ong*"), the Court of Appeal issued a timely reminder that while an asset acquired during a marriage technically fell within the definition of a matrimonial asset and could be the subject of division by the court between parties to the marriage, the court's power to divide any matrimonial asset was a discretionary one. Accordingly, the court could decline to order division of a matrimonial asset where there was a valid reason to decline to do so. In that case, the Court of Appeal decided not to order the division of the sale proceeds of a flat at Malvern Springs, which was not the matrimonial home, which had been acquired by the husband after the parties' relationship had deteriorated and had completely broken down. True, there was direct evidence in that case that the wife there clearly did not want to have anything to do with the purchase of that property. However, although such direct evidence was not present in the case before me, it is nevertheless still clear to me that the Wife would not have

wanted to have anything to do with the purchase of the second Joo Chiat Terrace house. She had already left the Bukit Regency matrimonial home and left it to the Husband to continue paying the mortgage payments for the same as well as for the Yishun matrimonial home until each was sold. She was not involved in the purchase of the second Joo Chiat Terrace house at all and if the Husband had been pressed to make any mortgage payment for the same, I have no doubt she would have asserted, rightly, that that was entirely his responsibility.

26 Bearing in mind that the second Joo Chiat Terrace house was acquired by the Husband after the marriage had broken down, although not yet dissolved, and what I have said above including the short marriage (up to the date of the divorce petition), I was not inclined to allow any division of the balance of the sale proceeds in favour of the Wife unless the interests of the children required me to allow the Wife something from the balance. I shall say more on this later.

### ***Yishun Ring Road flat and CPF money***

27 I come now to another property at Yishun Ring Road ("the Yishun Ring Road flat") which was bought in October 2006 after the Yishun matrimonial home was sold. It is a 4-room HDB flat registered in the names of the Husband and his mother. The Husband said his mother paid the option fee of \$50. The purchase price was \$136,000 and the Husband said it was to be financed through his CPF money (see para 3 to 6 of his affidavit filed on 3 November 2006). The parties proceeded on the basis that the Husband did finance the purchase from his CPF money.

28 The Wife is not claiming a share of this property as such. Rather, she is claiming a share of the Husband's CPF money used to purchase this property but in her written submissions, she did not say what percentage she was claiming. Presumably, she again wanted 50% as was the case for her claim in respect of the second Joo Chiat Terrace house.

29 In *Samuel Ong*, the Court of Appeal was not minded to order a division of the husband's savings which he had used to partly finance the purchase of the Malvern Springs property for certain reasons which I need not elaborate on because, in any event, the wife there, apparently, had not claimed any entitlement to the same.

30 In the case before me, there is no basis to leave out the Husband's CPF money used to purchase the Yishun Ring Road flat from the pool of matrimonial assets to be considered for division. According to the Husband's submission of 31 January 2007, he has the following in his CPF account:

- (a) about \$137,000 in his ordinary account which includes the money used to purchase the Yishun Ring Road flat;
- (b) \$21,398 in his medisave account; and
- (c) \$10,569 in his special account.

31 In the same submission, the Husband asserted that the Wife has the following sums in her CPF account:

- (a) \$36,911 in her ordinary account (the Wife says it is \$39,043.82 after refund of monies from the sale of the Yishun matrimonial home and the Bukit Regency property). This excludes \$55,445.51 which was withdrawn from her CPF account to purchase the Jalan Isnin property (see [16]) which I shall elaborate on later (see [36] and [45]);

(b) \$19,661 in her medisave account; and

(c) \$10,951 in her special account.

### ***The Bayshore property***

32 There was yet another flat which the Wife initially made a claim in respect of. This was the Bayshore property which the parties first resided in after the marriage, see [11] above. This property was purchased before the marriage and registered in the name of the Husband and his parents. It has been sold. The Wife has dropped her initial claim in respect of the Husband's interest in this property and I need say no more about it.

33 I come now to the Husband's claim in relation to two other properties, one in Brisbane, Australia, and the other in Singapore.

### ***The Brisbane property***

34 A unit at Brisbane, Australia ("the Brisbane property") was purchased in 1995 before the marriage and was registered in the names of the Wife and her parents. The Brisbane property was sold in April 2004 and a net sum of A\$13,500 was received. The Wife asserted that she did not contribute to the payment of the purchase price but the Husband did not accept this assertion. The net sum appears to have been paid into an account of the Wife and her parents and then transferred into an account of her parents with Oversea-Chinese Banking Corporation Limited. The Husband contended that one-third of the net sum should be included in the pool of matrimonial assets while the Wife contended otherwise since it was acquired before the marriage and it was not ordinarily used by either of the parties or any of the children and it was not substantially improved by the Husband or both the parties during the marriage (see s 112 (10) (a) (i) and (ii) of the Women's Charter).

35 For the reasons stated by the Wife, I agree that no part of the net sum is to be included in the pool of matrimonial assets.

### ***The Jalan Isnin property***

36 The next property is the Jalan Isnin property. This property was purchased in 1998, again before the marriage. It was registered in the names of the Wife, her parents and an uncle of hers as tenants in common with a quarter share for each. As alluded to in [31(a)], the Wife used \$55,445.51 from her CPF account to help pay for this property. The Wife and the children stayed there after they left the Bukit Regency matrimonial home and continue to reside there with her parents.

37 The Husband contended that 25% of the value of this property should be included in the pool of matrimonial assets. The Husband relied on my decision in *Neo Mei Lan Helena v Long Melvin Anthony* [2002] 4 SLR 384 ("*Helena Neo*") for the proposition that premarital CPF money from one party is part of matrimonial assets if the money is subsequently used to acquire a matrimonial asset. He contended that the value of the Jalan Isnin property was \$900,000 while the Wife estimated it to be \$550,000. Neither side provided any valuation of this property although the Wife submitted that she was prepared to do so if the Husband was willing to pay half the valuation costs, which offer he did not accept. The Wife disagreed that her interest in this property should be included in the pool of matrimonial assets for similar reasons which she used for the Brisbane property, although she accepted that she did help to finance the purchase of the Jalan Isnin property.

38 I do not think that *Helena Neo* assists the Husband. In that case, the husband's premarital CPF

money was used to purchase a flat which the parties used as their matrimonial home. The matrimonial home was then sold and the sale proceeds used to reimburse CPF accounts, including the husband's premarital CPF money used to purchase the matrimonial home. I decided that his premarital CPF money remained as matrimonial assets because the matrimonial home was a matrimonial asset. In the present case, the Jalan Isnin property was never used by the parties as a matrimonial home. Also, the Husband was not claiming a share of the \$55,445.51 only, but a share of the Wife's interest in the property which had apparently increased in value. For the same reasons I gave in respect of the Brisbane property, I conclude that the Wife's interest in the Jalan Isnin property is not a matrimonial asset.

### ***Other assets***

39 The parties have agreed that no claim be made against the personal bank accounts of each. The Wife has no further claim in respect of matrimonial assets and neither has the Husband except for a car which the Wife said she was maintaining.

40 The Wife clarified that she uses a Kia Carnival 2.5A car which was purchased on 1 February 2005 for \$77,499 in the name of her father. He is still working. The hire purchase agreement is in the name of the father and the instalment payments are \$747 per month. The Wife said she was contributing \$750 per month by way of cash to her father because she uses the car for the transportation needs of the children and herself. On the other hand, the Husband wanted the car to be included in the pool of matrimonial assets because he said the Wife had told him that the car was a gift to her from her parents (see para 37 of his affidavit of 13 October 2006) and she had not denied this allegation of his. There is no assertion by the Wife in her affidavit that this car was a gift to her. In her affidavit of means and assets of 21 October 2005, she said she did not own any motor vehicle, and, as already stated, the car is registered in the name of her father. It seems to me that the car is the property of her father. In any event, there is still an amount owing to the finance company and there is no evidence before me as to whether the value of the car exceeds the amount owing. In the circumstances, I am of the view that this car is not to be included in the pool of matrimonial assets.

### ***Parties' relative contributions***

41 The Husband has a chequered employment history during the marriage and after the Wife filed the divorce petition. I will elaborate on that history when I deal with the issue of maintenance. Aside from the payments for real properties purchased by the parties, the Husband seemed to be saying that he contributed more for the family expenses. However, he was not consistent about this allegation. In para 22 of his affidavit of 14 December 2005, he said that aside from the mortgage instalments and car payments, the Wife paid 50% of the family expenses. However, in paras 24 and 27 of his affidavit of 23 January 2006, he accused her of being financially irresponsible towards the family's liabilities and making him shoulder practically all the liabilities. On the other hand, the Wife said she had to work as a music teacher to help support the family because the Husband did not provide adequate financial support. I would add that she was already a music teacher before the marriage.

42 I have already set out above the financial contributions of the parties towards the purchase of their real properties. However, most of the monies used went back to their respective CPF accounts when these real properties were sold. For other expenses, I find that the Wife did contribute to about 50% of the family expenses except that the Husband contributed more for car payments.

43 For the non-financial contributions, it was obvious that the Wife was the primary care-giver of the children even though the Husband also played a part. She also claimed that she and the maid had

to do the packing and unpacking in the various moves from home to home and that she was in charge of the household whereas the Husband said it was his mother and the maid who did the packing and unpacking. I am of the view that the Wife must have played a role in the packing and unpacking and she was in charge of the household. In any event, I find that her overall non-financial contribution was clearly more than his although she did not have to give up her career as a music teacher.

44 The Husband's assets for consideration in the division of the matrimonial assets are the balance from the sale proceeds of the second Joo Chiat Terrace house and his CPF money, most of which has been used to buy the Yishun Ring Road flat with his mother.

45 The Wife probably has a one-third share in the relatively small amount of sale proceeds in the Brisbane property, which interest she denied. In para 25 of her affidavit filed on 16 October 2006, she also denied any interest in the Jalan Isnin property which she described as her parents' home. However, as she is registered as a tenant in common with a quarter share and she did contribute \$55,445.51 from her CPF account to help pay for this property, I find that she does have a 25% interest in it. It is a terrace house with three levels and has a land area of 91 sq metres (or about 978 sq ft). The value ascribed by the respective parties to the entire property is \$550,000 or \$900,000, see [37] above. She is also the only child of her parents, both of whom are together tenants in common of another half share.

46 I am mindful that whatever interests the Wife has in the sale proceeds of the Brisbane property and in the Jalan Isnin property, they are not part of the pool of matrimonial assets and hence not subject to division. Nevertheless, I should not ignore such interests entirely when I consider division. For example, if she and the children did not have a roof over their heads then I would have been inclined to order the Husband to share part of the balance of the sale proceeds from the second Joo Chiat Terrace house with her for that reason alone since, technically, it still comes within the definition of matrimonial assets. However, they do have a roof over their heads and, indeed, she did not mount her claim on the basis of need but on the basis of her indirect contribution. In principle, I will allow the Husband to keep the benefit of the balance of the sale proceeds of the second Joo Chiat Terrace house for reasons stated in [25] to [26], subject to my order relating to a sum of \$12,000 mentioned below.

47 The Husband submitted that taking into account the short marriage, the Wife should be allowed 15% of the aggregate of their assets. However, this submission focussed on her non-financial contribution and ignored her financial contribution in paying for family expenses. I am of the view that the equitable approach in the circumstances is to see by how much the assets in the Husband's name exceed the Wife's and to allow her a portion of the excess because of her greater non-financial contribution.

48 As regards the parties' respective CPF money, the parties have about the same amounts in the medisave and special accounts. For the ordinary accounts, the Husband has about \$100,000 more than the Wife, although his has been used to buy the Yishun Ring Road flat. I will allow the Wife 12% of \$100,000 ie \$12,000. Since his CPF money is tied up in the Yishun Ring Road flat but he has had the benefit of the sale proceeds of the second Joo Chiat Terrace house, the Husband is to pay \$12,000 to the Wife. I will allow him to do so in six equal monthly instalments of \$2,000 each on the first day of each month commencing from 1 August 2007 but if he should default in making any of these payments, the entire balance is to become due and payable to her.

## **Maintenance**

49 The Wife suggested that it was for the Husband to show why the maintenance amount ordered



by DJ May Loh should be reduced. I do not agree with this submission. That order was for interim maintenance only pending the hearing of the ancillaries by the High Court. Likewise, any decision on appeal from DJ May Loh's order was in respect of interim maintenance only. The same applies to any decision on any prior application to vary her order. I will first deal with the earning capacity of the Husband and of the Wife.

50 The Husband has a bachelor of science in engineering management and a masters degree in business administration and an honorary doctorate. He said that at the time of the marriage, he was working as an engineer earning \$3,500 per month. He had also given business management lectures over six months between 2000 and 2001 and earned \$2,000 from that. He was retrenched in 2002 and was helping a friend sell dogs till mid 2003, earning 10% commission. He was offered a full-time job at Y Pte Ltd ("YPL") as a business development manager earning \$3,500 a month. In December 2003, he joined a university as a research analyst because it offered him a fully paid scholarship. His stipend then was \$2,000 a month. After two or three months, he went back to work at YPL. After about two months, he joined GA on a salary of \$5,000 a month for about six months.

51 He then joined XPL and was appointed a director on 9 December 2003. He also became a shareholder holding 50,000 shares, ie 10% of its equity. There, he was earning \$8,000 a month although he did not elaborate on his executive designation. He said his net take-home pay was \$6,400 a month but he probably used a deduction of 20% for his CPF contribution without verifying the actual rate of contribution then. There was some sort of pay slip which showed that his CPF contribution was less than 20% then (see exhibit TJ6 of his affidavit of 26 November 2004). His last day with XPL was 31 December 2004.

52 The Husband said that he joined Z Pte Ltd ("ZPL") as a trainee manager from 1 March 2005 to June or July 2005 at a salary of \$3,200 per month. He said his take-home pay was \$2,560 per month.

53 The Husband was then employed by B Pte Ltd ("BPL") as a business development director at a gross salary of \$9,000 a month from 5 July 2005 to 26 August 2005. He did not say what his take-home pay was.

54 The Husband was then employed by C Pte Ltd ("CPL") as a junior management executive from September 2005 to October 2005 earning \$3,400 per month with a take-home pay of \$2,800 per month. He was thereafter unemployed for a while.

55 From about 17 January 2006 to March 2006, he was employed by AP Limited ("APL") as a business manager with a salary of \$3,500 per month and take-home pay of \$2,800 per month.

56 With effect from 3 April 2006, he was employed as a Regional Business Development Manager, by D Pte Ltd at a salary of \$5,000 per month. He said his take-home pay was \$4,100 per month. The letter of appointment also states that he will be paid \$1,000 a month as transport reimbursement and he will be provided with a mobile phone, the expenses of which will be paid by his employer. This is his current job.

57 The Wife stressed that at the time she made her application for interim maintenance, the Husband was earning \$8,000 per month from XPL. She also pointed to his employment with BPL to show that he could also earn \$9,000 a month. I would add that BPL's calculation of payments due to the Husband on his termination suggested that he was also entitled to a transport allowance of \$1,000 a month over and above the \$9,000 a month salary.

58 The Husband submitted that his employment at XPL was terminated by letter dated 1 December

2004 because the company had losses by then. In para 3 of his 4 January 2005 affidavit, he said the losses amounted to more than \$600,000. In para 17 of his affidavit of 23 December 2005, he referred to losses of \$600,000. He also said that for November and December 2004, the company could pay half his salary only, as for other directors too, and in December 2004, the company could not pay its CPF contribution on his salary. He said he had various debts. For example, he owed the company \$50,000 being a loan by the company to him to enable him to buy shares in the company ("the Share Loan") and he also owed the company an initial \$50,000 being another loan to assist him to buy the second Joo Chiat Terrace house ("the Housing Loan").

59 The Husband had filed an affidavit on 26 November 2004 in response to the Wife's application for interim maintenance. Para 16 thereof asserted that because XPL had been incurring losses in the last few months, the management had indicated that with effect from the following year there would be a cut in salaries. Yet five days later, XPL purportedly terminated the Husband's services by letter dated 1 December 2004 with effect from 31 December 2004. I reiterate that the Husband was a director of the company. He could not have been so unaware of the plans of the company. Furthermore, in that affidavit, he had asserted that there would be a cut in salaries from the following year, ie 2005, but in his subsequent affidavits, he asserted that there was a cut of half his salary for November and December 2004.

60 In addition, the Husband claimed that the Share Loan was evidenced by a loan agreement dated 21 October 2004 but a company search on 6 April 2004 revealed that he was a shareholder of 50,000 shares in the company by the date of that search. The Husband's explanation, supported by a self-serving letter from the company, was that the paperwork for the Share Loan was done later because the company had to immediately register with the Ministry of Education ("MOE") to run educational programmes and all the directors had agreed that the paperwork be done later. However, the main documentary evidence he produced to support his allegation of this loan was the self-serving loan agreement dated 21 October 2004 between him and the company. No accounting record of the company was produced to substantiate this allegation. Furthermore, the letter from the company did not elaborate as to when the company had registered with MOE or explain why there was a delay till 21 October 2004 to document this loan even though it was allegedly made before the Housing Loan and the Housing Loan was already documented in a loan agreement dated 6 August 2004.

61 When the Husband left XPL, he purportedly sold his shares in the company to a director for \$35,000 leaving himself with an aggregate debt of \$65,000, ie \$15,000 plus \$50,000 owing to the company for which the company then apparently commenced action in MC Suit 5432 of 2006 against him, which action he then settled. However, the action by XPL raised more doubts about the Husband's bona fides. He said he had sold the second Joo Chiat Terrace house in or about November 2005. Various payments were made from the sale proceeds including a purported payment of \$25,000 to XPL which was evidenced by a DBS cheque from his solicitors dated 2 December 2005. Yet, the Statement of Claim of XPL found in the Writ of Summons dated 3 March 2006 did not account for this payment of \$25,000. Furthermore, there was sufficient surplus from the sale proceeds of the second Joo Chiat Terrace house to make payment not only of \$25,000 but of the entire \$65,000 which he was then allegedly owing to XPL. After all, he had sufficient surplus from the sale of the second Joo Chiat Terrace house to pay various individuals, for example:

- (a) his mother (\$15,000 of which part went to her CPF account);
- (b) a cousin (\$15,000);
- (c) his girlfriend (\$10,000);

- (d) a brother (\$17,000);
- (e) a close family friend (\$4,000); and
- (f) another close family friend (\$4,000).

62 I would add that the losses of the company were said to have been incurred over a few months before November 2004 and yet the company was able to grant him the Housing Loan as late as in August 2004. Indeed, para 12 of the Husband's affidavit filed on 23 December 2005 said that the Housing Loan was made when his friends and he were optimistic and had high hopes. How did the high hopes suddenly turn into losses of \$600,000 or more? Again, no accounting record of the company was produced to substantiate the losses or even the Housing Loan. Likewise, for the purported reduction in all directors' salaries for November and December 2004.

63 Furthermore, while the Husband specifically disclosed his subsequent employment with ZPL and CPL in his affidavit filed on 23 December 2005, he omitted to mention his employment with BPL in the body of that affidavit. It seems that the employment with BPL was inadvertently disclosed by him in an exhibit to his earlier affidavit of 14 December 2005 which showed his CPF contribution history for October 2004 to December 2005. The Wife then requested for discovery of various documents, including documents relating to his employment with BPL, and he then disclosed a letter dated 26 August 2005 from BPL about his cessation of employment with an attached calculation of compensation. He did not disclose the contract of employment with BPL even though there must have been such a written contract because there is a reference in the letter of cessation to his having signed a non-compete clause. He also did not explain how he came to leave BPL although a subsequent letter from BPL dated 6 February 2007, tendered with his submission, said that his employment ceased because BPL found him unsuitable for the role.

64 As for the Husband's departure from ZPL and CPL, he initially blamed the Wife's maintenance summonses against him for his departure from CPL. It was only later that he blamed the Wife's maintenance summonses for his departure from both these companies, see paras 18 and 19 of his affidavit filed on 23 December 2005 and para 5 of his affidavit filed on 16 August 2006. In any event, there was again no elaboration from him as to why he left APL.

65 I am of the view that the Husband had orchestrated his departure from XPL. I also do not accept the validity of the purported loans from XPL. They were part of various other debts he was supposedly owing to various entities. While I do not say that all his debts were fictitious, it is clear to me that he wanted to create the impression of a person in dire financial circumstances.

66 Indeed, the Wife said that on or about 18 January 2006, she agreed to receive \$1,200 a month interim maintenance for herself and the children, without prejudice to her rights, for the reason that he had led her to believe that he was still unemployed then, having lost his last employment with CPL. However, unknown to her, the Husband was employed with APL on or about 18 January 2006. The letter of appointment to him was dated 17 January 2006. The Husband did not deny that the Wife had agreed to receive \$1,200 a month because of his unemployed status.

67 I would add that in a posting on a matchmaking website which the Wife downloaded on 6 March 2005, the Husband declared his occupation to be that of a teacher/professor and his income to be in the range of \$75,000 to \$99,999 which averaged \$6,250 to \$8,333.25 per month. According to his own affidavits, he was either unemployed then or had just begun employment with CPL with a salary of \$3,400 per month only.

68 In the circumstances, I find that the Husband has not been truthful about his earning capacity and he has gone to great lengths to distort the truth. I find that he has the capacity to earn \$8,000 a month.

69 As for the Wife, she has a masters degree in education. She is a music teacher with M Pte Ltd ("MPL") with an average monthly income said to be \$1,500 to \$1,600 per month in early 2004 and lately between \$2,200 to \$2,400 per month. The Husband asserted that she also gave music lessons privately to students at the Jalan Isnin property which she denied. However, the Husband obtained a private investigator's report (undated) which stated that at least six other children were seen going into and/or out of the Jalan Isnin property on Friday and Saturday, 6 and 7 January 2006. The Wife did not dispute the accuracy of the report although she still refused to admit that she had been giving private tuition then. Neither did she dispute the assertion of a music teacher ("Teh"), who said in para 10 of his affidavit of 29 November 2005 that she had told him that she had 20 private students and the lowest fee she charged was \$120 and the highest was \$200 to \$300. Presumably, such fees were charged on a per month basis. The Wife admitted only to having given some private tuition from which she earned \$800 per month in the past, see para 7 of her affidavit filed on 10 December 2004. The Wife denied the Husband's allegation that she could earn \$4,500 a month including her job at MPL.

70 The private investigator's report and Teh's affidavit were obtained after the order of 25 April 2005 from DJ May Loh and the unsuccessful appeals by the Husband and also by the Wife heard on 6 July 2005. In the light of such evidence, I conclude that the Wife also gives private music tuition or has the capacity to do so. In the absence of further information, I find her earning capacity to be, say, \$3,500 per month, which is inclusive of her job at MPL.

71 I come now to the expenses of the Wife and children and of the Husband.

72 In the Wife's affidavit filed on 16 January 2007, the Wife provided updated information on the monthly expenses of the children and herself as follows:

First child (daughter)

S/No	Description	Amount in S\$
1.	School Fees for X Primary School (Primary One)	11.00
2.	Mandarin classes	140.00
3.	English phonics classes	150.00
4.	Music Classes	89.25
5.	School bus	80.00
6.	Food \$5.00 x 30 days	150.00
7.	School Pocket money \$1.50 x 20 days	30.00

8.	Clothes	30.00
9.	Books, educational toys, CDs, DVDs	90.00
10.	Milk (shared with second child-\$28/tin x 4 tins per month = \$112/month divide by 2 = \$56.00)	56.00
11.	Diapers/pull ups \$1.00 per piece x 30 days	30.00
12.	Aviva Insurance (My child)	66.00
13.	AIA Insurance (Pink of Health)	22.95
14.	IA Insurance (Accident Shield)	11.69
15.	AIA Insurance (Health Shield) - \$95/yr through CPF and \$155/yr for riders paid in cash	12.95
16.	Medical and dental	40.00
17.	Maid's salary and levy	186.60
18.	Miscellaneous eg school books, shoes, uniform, school outings/programmes	100.00
	<b>Total</b>	<b>1,296.44</b>

Second child (son)

S/No	Description	Amount in S\$
1.	School Fees for Y Kindergarten - \$956.55/term divide by 3 months	318.85
2.	Mandarin classes	80.75
3.	Abacus classes	58.80
4.	School bus	75.00
5.	Food \$5.00 x 30 days	150.00
6.	Clothes	30.00

7.	Books, educational toys, CDs, DVDs	90.00
8.	Milk (shared with first child- \$28/tin x 4 tins per month = \$112/month divide by 2 = \$56.00)	56.00
9.	Diapers/pull ups \$1.00 per piece x 30 days	30.00
10.	Aviva Insurance (My child)	50.00
11.	AIA Insurance (Pink of Health)	29.86
12.	AIA Insurance (Accident Shield)	11.69
13.	AIA Insurance (Health Shield) - \$95/yr through CPF and \$155/yr for riders paid in cash	12.95
14.	Medical and dental	40.00
15.	Miscellaneous eg outings/programmes	50.00
16.	Maid's salary and levy	186.60
17.	Starting Classes at Z School in October 2007	240.00
	<b>Total</b>	<b>1,510.50</b>

### Third child (son)

S/No	Description	Amount in S\$
1.	School Fees for Y Kindergarten - \$956.55/term divide by 3 months	318.85
2.	Mandarin classes	61.20
3.	Music Classes starting in April 2007	70.00
4.	School bus	75.00
5.	Food \$5.00 x 30 days	150.00
6.	Clothes	30.00

7.	Books, educational toys, CDs, DVDs	90.00
8.	Milk (25/tin x 5 tins per month = \$125/month)	125.00
9.	Diapers/pull ups \$0.70 per piece x 4 pieces/day x 30 days	84.00
10.	AIA Insurance (Pink of Health)	29.86
11.	AIA Insurance (Accident Shield)	11.69
12.	AIA Insurance (Health Shield) - \$95/yr through CPF and \$155/yr for riders paid in cash	12.95
13.	Medical and dental	40.00
14.	Maid's salary and levy	186.60
15.	Miscellaneous eg outings/programmes	50.00
	<b>Total</b>	<b>1,335.15</b>

#### Wife

S/No	Description	Amount in S\$
1.	Food	300.00
2.	Clothes, shoes	100.00
3.	Petrol Expenses	300.00
4.	Monthly instalment	750.00
5.	Parking	100.00
6.	Insurance :Great Eastern - \$28.90 AIA (critical illness) - \$190.00 AIA (Pink of Health)- \$49.40	268.30
7.	Phone bills	100.00
8.	Hair, nails, facial	150.00

9.	Utilities	200.00
10.	Medical/Dental	40.00
	<b>Total</b>	<b>2,308.30</b>

The total expenses of the children and the Wife would be \$6,450.39.

73 The Husband updated his expenses in his affidavit filed on 13 October 2006 to be as follows:

Husband

S/No	Description	Amount in S\$
1.	Food/groceries for self and mother	300.00
2.	Eating out at lunch time during work	200.00
3.	Transport (car instalment, insurance, tax, petrol, maintenance, ERP, parking charges)	1,172.00
4.	Clothes/shoes/haircuts/grooming	50.00
5.	Maintenance to Wife and children	1,200.00
6.	Payment to XPL for loan	750.00
7.	Monthly allowance/medical bills for mother and father respectively	200.00 300.00
8.	Utilities/telephone mobile phone	400.00
9.	Conservancy for HDB flat + property tax	50.00
10.	Entertainment	50.00
11.	Expenses during access with children	100.00
12.	Income tax	222.29
	<b>Total</b>	<b>4,994.29</b>

74 The Husband contested the children's expenses. He said that the daughter had just started primary school and disputed that she needed \$190 per month for books, educational toys, CDs, DVDs



and shoes etc (items 9 and 18). She did not wear diapers at her age (item 11 at \$30 per month).

75 He disputed that the second child required abacus class or so many books and educational toys etc (items 3 and 7 at \$58.80 and \$90 per month) or diapers (item 9 at \$30 per month). He also noted that this child's expenses included proposed classes at Z School starting October 2007 (item 17 at \$240 per month).

76 As for the third child, the Husband disputed that he should be sent to Y Kindergarten at the age of 3 (item 1 at \$318.85 per month) or that he required books and educational toys etc (item 7 at \$90 per month). He also noted that this child was supposed to have music classes starting April 2007 (item 3 at \$70 per month).

77 The Husband objected to all the enrichment classes unless he agreed to the same and also objected to the inclusion of all insurance policies as they are a form of savings. He also submitted that the full costs of the maid should not be attributed to the children only as the maid was also used by the Wife's parents and cared for their home as well.

78 The Husband also questioned the Wife's expenses such as her expenses for hair, nails and facial (item 8 at \$150 per month) and her car which he claimed she had said was a gift from her parents (item 4 at \$750 per month). This is the Kia Carnival car which I dealt with in the division of matrimonial assets.

79 On an aggregate basis, the Husband had varying figures which he assessed to be the children's monthly expenses. In para 17 of his affidavit of 26 November 2004, he assessed their expenses to be \$1,250 per month. In para 28 (a) of his affidavit of 14 December 2005, he assessed their expenses to be \$3,000 per month. In para 50 of his submission of 31 January 2007, he assessed their expenses to be \$2,400 per month. He took the position that he and the Wife should be equally responsible to maintain the children and the Wife should maintain herself.

80 The Wife's assessment of the expenses for the children had also varied over time. One of the reasons for the difference was that before 2007, she had not included kindergarten and other classes for the third child and she had apportioned the expenses for the maid to herself rather than to her three children.

81 I agree with the Husband that the children need not have so many enrichment classes, especially since the Wife is herself a music teacher, and some of the insurance plans may have an element of savings. I was not given more details of such plans. The expenses for books, educational toys, CDs, DVDs also seemed excessive and the two elder children were not likely to be wearing diapers still. However, I am of the view that the expenses of the maid should be apportioned among the three children even though the Wife and her parents would also have some benefit from the maid's services as the maid is required solely because of the children and the parties had a maid before the Wife left the Bukit Regency matrimonial home. Therefore, I make the following deductions for each of the children:

First child

\$150.00	for English Phonics classes
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\$ 89.25	for music classes
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\$ 50.00                      for books etc

\$ 30.00                      for diapers

\$ 50.00                      for insurance

say, \$370.00

Second child

\$ 58.80                      for Abacus classes

\$ 30.00                      for diapers

\$ 50.00                      for books etc

\$ 50.00                      for insurance

\$240.00                      for Z School

say, \$430.00

Third child

\$ 70.00                      for music classes

\$ 50.00                      for books etc

\$ 20.00                      for insurance

\$140.00

I assess the children's expenses per month as follows:

(a)    first child            -    say \$930 per month

(b)    second                -    say \$1,080 per month  
      child

(c)    third child            -    say \$1,200 per month

\$3,210 per month

82      As for the Wife's expenses, the car belongs to the father. I do not see why the Wife should bear any part of the monthly instalments of about \$750. Even though she does use the car for the

travel of the children and herself, it seems to me that her father had bought the car primarily for himself and his wife. Besides, her parents were having the benefit of the maid even though none of the expenses in respect of the maid were apportioned to them. The insurance premiums for the Wife also seemed to include some savings element and her expenses on petrol, phone bills, hair, nails and facial seemed on the high side. Therefore, I make the following deductions for the Wife:

\$100	for petrol expenses
\$750	for monthly expenses for the car
\$100	for insurance
\$ 30	for phone bills
\$ 30	for hair, nails, facial
<u>\$ 40</u>	for utilities
<u>\$1,050</u>	

I assess the Wife's expenses to be say, \$1,260 per month.

83 The Husband's expenses already included the \$1,200 per month maintenance he was currently paying. This should be excluded for the time being while the quantum of maintenance is being assessed. I also do not accept his expense of \$750 per month supposedly paid to XPL to repay the loans to him. In the first place, I do not accept the validity of both the loans for the reasons I stated above. Furthermore, the main portion of the alleged \$65,000 outstanding is attributable by the Husband to the Housing Loan but he made a profit from the sale of the second Joo Chiat Terrace house. Bearing in mind my decision on the division of matrimonial assets, the alleged payment of \$750 per month should not be included by him to inflate his expenses. He suggested that he would have to pay allowance/medical bills for his mother and father but there was no mention of his having to maintain his father, who is retired and living separately from the mother and him, in his earlier affidavits. It was only in the Husband's affidavit of 16 August 2006 that he said he was bearing the cost of his father's medical treatment for kidney failure recently. Although the body of that affidavit did not refer expressly to exhibits on this subject, some documents on this subject were exhibited in that affidavit. The exhibits included two notes from his father. One was dated 18 May 2006 and the other was undated. The father's notes asserted that he was unable to work since January 2004 and that the Husband had given him an allowance of amounts ranging from \$100 to \$400 which totalled \$2,500 between May 2004 to October 2005. The Husband had also given him \$400 for each of March and April 2006 and \$300 for May 2006 and had paid for his medical expenses when he was warded at Tan Tock Seng Hospital in March 2006. Yet, as stated above, there was no mention by the Husband in his earlier affidavits since 26 November 2004, if not earlier, about his having to maintain his father from May 2004. Even in his affidavit of 16 August 2006, he mentioned only about his father's recent kidney failure and not any prior maintenance of the father. The father's dated note also said that he was out of work since January 2004. The Husband had said that his father had retired. Also, a form dated 6 May 2006 signed by Dr Daniel Yeo of Tan Tock Seng Hospital stated that the father was having end-stage renal failure and was terminally ill. The Husband did not elaborate on the life expectancy of his father. Neither was there any information given about his father's savings. While he claims to have to maintain his mother, his mother was also listed by him as a creditor for \$70,000, see

para 23 of his affidavit filed on 14 December 2005. Although he exhibited some pawn tickets attributed to the pawning of his mother's jewellery, there was still a dearth of evidence about her savings or to explain how she could lend him so large a sum as \$70,000 even if she had pawned some jewellery. In the circumstances, I will not take into account the alleged expenses for his father or mother. His utilities, telephone and mobile phone bills of \$400 a month also seem on the high side for one person.

84 I make the following deductions in respect of the Husband:

\$100	for food/groceries
\$1,200	for maintenance for the Wife and children
\$ 750	for loan from XPL
\$ 500	for allowance/medical bills for his parents
<u>\$ 200</u>	for utilities/telephone mobile phone
<u>\$2,750</u>	

I assess a fair amount for his expenses to be say, \$2,250 a month.

85 Given their respective earning capacities and the expenses, I order that the Husband is to provide 20% maintenance for the Wife and 80% maintenance for the children. The details are as follows:

(a)	for the Children :	
	First child	\$744 per month
	Second child	\$864 per month
	Third child	<u>\$960</u> per month
		<u>\$2,568</u> per month
(b)	for the Wife:	\$252 per month

86 However, as the aggregate of the children's expenses was not so high in the initial years, I will adopt a broad brush approach and allow the Husband to pay 80% of the sums set out in [85(a)] for the children from 8 May 2005 (which is the effective date of DJ May Loh's order) to 31 December 2006. Neither party was asking for the maintenance to be back-dated beyond 8 May 2005. For the Wife, the Husband is to pay the full sum I have decided on for the period from 8 May 2005 to 31 December 2006. From 2007 onwards, he is to pay the full sums of maintenance I have ordered for the children and for the Wife on the first day of each month. Any payments previously made by the

Husband for his liability to pay maintenance from 8 May 2005 onwards is to be set off against his liability under my order.

### **Custody, care and control and access**

87 In para 11 of the Wife's affidavit filed on 16 October 2006, she was agreeable to joint custody of the children with care and control to her. The reason given by the Wife for now seeking sole custody is that the Husband does not agree to the youngest child going to Y Kindergarten even though the older siblings went there. She foresees future difficulties in relation to the children's education. Her alternative proposal, if joint custody is given, is that she should have the final say on matters relating to their education.

88 The children's education is one of the most important aspects of joint custody. I am not persuaded by the Wife that I should deny the Husband joint custody and accordingly I award joint custody to the Husband and the Wife. I make the decision on joint custody notwithstanding the Husband's conduct in trying to hide his true earning capacity or his irresponsible conduct in claiming to have no children on an internet dating service, which the Wife also complained of, and in providing other false information on that internet dating service, see [67] above. The Husband is unhappy with the extent to which the Wife has enrolled the children in educational programs because she is using the same to claim maintenance from him. Hopefully, when the dust settles, they will be able to co-operate a bit better. If not and if there are still unresolved disputes in the future, then the parties will have to seek a dispute resolution mechanism, whether it be the courts or otherwise.

89 There is no dispute that the Wife is to have care and control of the children and I so order.

90 As for access, the Husband currently has access to the children every Sunday from 11am to 5pm (according to the Husband's submission) or 6pm (according to the Wife's submission). In addition to the normal access, the Husband is seeking overnight access once a month from 9pm to 9pm. He also wants access over four continuous days or one week in June and in December each year which will allow him to make a trip to Johore where his grandmother stays and for one day of the first two days of Chinese New Year. The Husband says his mother can help to take care of the children and so can his two brothers. The mother used to take care of the second child from time to time. The Husband also does not want the Wife's maid to be present during access as he feels that the Wife is using the maid to report on him and make complaints thereafter. As I was writing this judgment, I received another complaint from the Husband. He said that he did not want the maid along because she was hitting the children, in particular the second child, and was interfering in his interaction with them.

91 The Wife wants the maid to be present during the Husband's access as there are three young children to be taken care of. At present, they are of the following ages : 6, 5 and 3 respectively. She also objects to overnight access in view of their young age. The Wife claims that the youngest child still has night feeds and the children occasionally wet their beds. She also complains that, as it is, the Husband does not even spend all the access time with the children and leaves them in the care of others so that he can spend time with his girlfriend at the Yishun Ring Road flat. She also complained of one occasion on 15 October 2006 when he left the children alone with the maid at Parkway Parade from 3pm to 5.30pm but this allegation was denied by him. Hence, she is seeking an order that the Husband be physically present throughout the access period and not leave the children in the care of others.

92 In response to the latest complaint from the Husband, the Wife's position was that the parties had previously agreed to the maid accompanying the children during access and this was when the

Husband was staying with his mother and two brothers. The Wife disputed that the maid had hit the second child or had interfered with the Husband's access. She said the maid had only informed the Husband of the Wife's instruction that the children were not to be given spicy food. The Wife also referred to a mobile phone text message which the Husband sent her recently stating that he was willing to reduce his access time if she were to agree that the maid would not accompany the children. In response, the Husband said that he had sent that message out of anxiety as he had been deprived of access for more than two weekends. The Husband said he wanted more, rather than less, access. In turn, the Wife disputed that the Husband had been denied access recently and said it was he who did not want access when he saw that the maid was coming along.

93 I find some truth in the Wife's complaint about the Husband not being with the children throughout the access time. While I can sympathise with him if he needs some rest during access time, the situation is different if he also wants to spend time alone with his girlfriend during access time. I am prepared to give him a chance to be alone with the children, ie without the maid, but he has to be practical and realistic. The primary purpose of access for him is so that he, as the father, can spend time with the children. It is not so much for his mother to do so. If he does not intend to be with them throughout the access time that he currently has, he should reconsider his demands for access.

94 As for the Husband's two brothers, one is aged 25 and serving National Service and the other is aged 23 and is unemployed. He referred to them as being available to help him care for the children only in his later affidavits and there is no evidence to show their genuine desire to help care for the children. I am of the view that he was using them to bolster his claim for more access just as he was making up reasons to try and stop the maid from accompanying the children. In my view, the real reason why he does not want the maid along is that he feels she is being used to spy on him.

95 The Husband's mother is diabetic and is 57 years of age. While in the past, she cared for the second child from time to time, she has not cared for all three children overnight and he has not suggested that he can do so by himself. Furthermore, it is not even certain that he is prepared to be with them throughout the current access. I have my reservations about overnight access at present especially after taking into account his character and their young ages, although generally speaking, it should be beneficial for a father to have overnight access time with his children.

96 The latest conduct of the Husband in sending the message to say that he was prepared to have less access if the maid did not come along and then subsequently saying that he actually wants more access without the maid, reflected his immaturity and also his impulsive nature which has caused me concern with respect to overnight access without the maid.

97 Accordingly, I am of the view that, with effect from 1 August 2007, he is to have access to the children on Sundays from 11am to 6pm without the maid but, for the time being, his application for overnight access is refused. The Husband is also to have access to the children for one of the first two days of Chinese New Year from 11am to 6pm on an alternate basis, starting with the second day of Chinese New Year 2008 if the parties cannot agree which of the two days the access is to be on. The Husband is also to have access from 11am to 6pm on a weekday of each of four weeks in June and in December provided he gives the Wife advance notice of five clear days before the intended access. However, if the Husband still wants to have overnight access and demonstrates that he is able to care for the children without the maid, the Wife must appreciate that the young ages of the children cannot be used for too long to deny the Husband overnight access.

98 Although the Wife was not entirely truthful about her earning capacity, the hearing of the ancillaries was made more difficult for me primarily because the Husband did not seem to care to

provide information candidly, clearly and consistently.

99 As for SUM 19998/2005, I make no order thereon. I will hear the parties on costs in respect of the ancillaries.

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