# LAB's Case Digest (July – September 2025)

This digest features various High Court cases on family law and procedure, published since the April – June 2025 Case Digest, which LAB found to be of interest. Each case write-up only focuses on points which LAB has found to be of interest and does not cover every issue that was considered in the case.

## 1. Division of matrimonial assets

### 1.1 *XJO v XJP and another matter* [2025] SGHCF 39

*Valuation of Shares*

Forum: General Division of the High Court (Family Division)

**Brief facts:** In this case the parties married on 9 June 2001 and had a daughter aged 23 at the time of this appeal. The marriage lasted about 23 years, with interim judgment being granted on 11 March 2024 and the ancillary matters heard on 3 February 2025. The husband appealed on the division of matrimonial assets.

**Key points:**

(a) The issues in the appeal were largely factual and turned on whether there was sufficient evidence to prove the husband's assertions (in all points, they were not). The appeal was dismissed in its entirety. The only issue of some interest which this write-up will cover is the valuation of the husband's 245,048 shares in a company he ran which sold furniture, lighting equipment and other household appliances ("the Company"). The district judge valued these shares by taking into account the Company's financial statements for 2021, 2022 and 2023. The average equity value of the Company over the three years was $48,758 (rounded off). As the total number of shares in the Company was 310,000, each share was valued at $0.156. The appellant's 245,048 shares were therefore valued at $38,542. (There are minor discrepancies in the calculations, but these were not material to the outcome.) The husband argued that the Company's business was on the decline, and its 2024 balance sheet showed that the net asset value and total equity was negative 47,862, and hence the value of his shares should be nil.

(b) The court noted that the financial documents were not available to the district judge at the time of the ancillary matters hearing, in particular the Company's 2024 financial statements, and hence she chose to consider the average of the net asset value from 2021 to 2023 for fairness. The wife had also asked the husband to provide a valuation of the Company shares, but he had refused to, on the grounds that it was not necessary, and in any event would be negative.

(c) The court held that the courts may, and usually would, obtain an estimated valuation of the shares in a company by taking the average of the net asset value from the financial statements. Hence, the district judge's findings on the share value were upheld by the High Court.

## 1.2 *XCZ v XDA* [2025] SGHCF 38

*Short marriage, 2 children*

Forum: General Division of the High Court (Family Division)

**Brief facts:** In this case, the parties married on 11 April 2015. They had a daughter (C1) and a son (C2), aged 8 and 4 years respectively at the time of the ancillary matters hearing. Interim judgment was granted on 22 June 2023 – hence the marriage lasted slightly more than 8 years.

**Key points:**

**Care and control**

(a) Parties agreed on joint custody of the children. The wife wanted sole care and control. The husband sought shared care and control. The court was of the view that a shared care and control order would not be appropriate, as young children required constancy in their routine and uprooting them every few days to a new home would be overly disruptive. C2 was only 4 years old and would benefit from a stable routine. Although C1 was older, splitting the siblings between 2 households would not serve their best interests. The wife had been the children's primary caregiver from birth and had established routines for them. There had already been interim access arrangements in place which had been working well. Hence the court ordered that the wife have care and control, with weekly overnight access to the husband from 9 am on Saturdays to 3 pm on Sundays, with provisions for school holidays, public holidays and overseas travel.

**Matrimonial assets – loan; withdrawals and indirect contributions**

(b) The total matrimonial asset pool was $4,782,675.84. The court dealt with various factual issues concerning the valuation of various assets and whether they formed part of the matrimonial asset pool which this write-up will not cover, as there were no new legal points.

(c) One issue of interest was whether the initial cash payment of $1,137,269.41 made by the husband's mother towards the purchase of the matrimonial home was a loan from her to the husband, or a gift to the husband and wife. The court held that it was a loan. There was a loan agreement signed by the husband, mother and the property agent which the court accepted was evidence of the loan despite the fact that it was backdated by a few months and the original could not be produced. The wife had a poor relationship with the husband's family – none of them, including the mother, attended the wedding, and the mother even severed contact with the husband for a few months thereafter. It was unlikely that the mother would have wanted to make a substantial gift to benefit both parties equally less than a year after their marriage, in such circumstances. Part of the $1,137,269.41 sum was a cheque for $124,743.91 to the husband for him to repay his outstanding car loan so that he could obtain an 80% mortgage loan for the matrimonial home. It is unlikely that the mother would have intended to give both parties money to clear a liability that was only in the husband's name.

(d) The loan agreement stated that the loan would be returned to the mother upon the sale of the matrimonial home. The court stated that the loan amount should be deducted from the sale proceeds of the matrimonial home and returned to the mother before being divided between the parties. The loan would not be counted as the husband's direct contribution to the matrimonial home – it was merely a liability in his name.

(e) The husband stated that between August 2016 to September 2017, the wife withdrew $51,863.69 from one of her bank accounts without making any deposits. Between February 2020 to October 2022, she withdrew $242,038.37 from another account, and $141,651.39 from their joint bank account. Although the wife explained that the withdrawals were for household and family expenses, the husband contended that many withdrawals were for her personal use, including transfers to her personal accounts and credit card payments. The court noted that these withdrawals occurred over a period of several years before the breakdown of the marriage. Moreover, the wife had made regular contributions to the joint accounts. Hence, the court did not appear to have counted this against the wife in deciding the parties' indirect contributions.

(f) The ratio of the parties' direct contributions was 82:18 in the husband's favour, and the ratio of their indirect contributions was 50:50. There was no reason to depart from the default position of assigning equal weight to the direct and indirect contributions. Hence, the final division ratio was 66:34 in the husband's favour. The court also made orders on child maintenance – but this write-up will not cover that either, as there was no new legal point raised.

### 1.3 *XIB v XIA* [2025] SGHCF 40

*10-year marriage, 2 children - company shares not converted to matrimonial asset by indirect contributions*

Forum: General Division of the High Court (Family Division)

**Brief facts:**

1. In this case, the husband (a Singapore citizen) and wife (a Chinese citizen) married on 31 August 2011. They lived together in Singapore for a week after the marriage, and then the wife returned to China. There was a dispute between the parties on whether the wife lived in China because she felt her in-laws did not welcome her, or whether she preferred living in China. They had 2 children, aged 13 and 5 years respectively at the time of the appeal hearing. Both children had Thalassemia, and the son also had a speech and language disorder. The wife previously worked as a food and beverage manager in China between 2014 to 2019 but had been a homemaker since the son was born in 2020. The wife and children lived in China, and the husband visited them in China once or twice a year, and on a few occasions, they would come to Singapore. The husband submitted that it was the wife's unilateral decision to live in China with the children.

2. The husband had questioned whether the son was his biological son and requested a DNA test. The wife and son flew to Singapore in October 2024 for the test, which confirmed that the son was the husband's biological son. The wife commenced divorce proceedings on 16 April 2021, and interim judgment was granted on 5 January 2022. Hence the marriage lasted slightly over 10 years. The ancillary matters were heard on 13 January 2025, and the husband filed an appeal in respect of the division of matrimonial assets, access and costs. This write-up will focus on the division of matrimonial assets and costs.

**Key points:**

(a) The husband had been the sole shareholder of Company A before the marriage. It was incorporated on 7 June 2010. The district judge had held the Company A shares to be a transformed matrimonial asset, being "substantially improved" during the marriage by the wife's indirect contributions through her caregiving role. There was no valuation report on the shares. The district judge valued the shares based on Company A's book value as of financial year 2023 (i.e. the difference between total assets and total liabilities, which is what the husband would have received if the company had been liquidated).

*Indirect contributions insufficient to transform company shares to matrimonial assets*

(b) The High Court held that the Company A shares were not matrimonial assets. The wife's indirect contributions in terms of caring for the children did not count as a substantial improvement of the shares – there was (a) no obvious increase in turnover or profitability of the Company which (b) could be directly linked to her contributions (contrast a situation where a spouse had made efforts to develop the pre-marital business). The wife had not made any direct financial contributions to the Company. Note: The court stated that a substantial improvement to the pre-marital asset which transformed it into a matrimonial asset need not necessarily be measured by an

increase in value alone. For example, a spouse could have contributed to renovations to a property to improve it, but a downturn in the property market may have depressed the property's value; or a spouse could have helped steer a business through a crisis and enabled it to survive, even if diminished in value. Hence the focus is not on (or not just on) whether the asset in question has increased in monetary value – all the facts and circumstances must be considered.

*Occasional cash transfers from personal accounts insufficient to transform company shares to matrimonial assets*

(c) "Substantial improvement" is meant to capture real and targeted enhancements to the asset itself – which is a matter of fact and degree. The husband had used funds from his personal bank account to support the business of Company A by paying suppliers. This did not transform Company A's shares into a matrimonial asset since the transfers were only occasional.

*Proper valuation vs book value*

(d) The court noted that taking the book value was a poor proxy for the actual substantive value as it did not take into account many factors which may depress or potentially depress a company's true value. It would therefore be best to get a proper valuation for company shares. (Taking the book value in this case was even more problematic because it was based on unaudited statements.) The court urged parties not to passively wait for the court to order a valuation, but to be pro-active about placing all the relevant financial information before the court.

*Personal funds used for Company to be included in matrimonial asset pool*

(e) The monies the husband used for Company A, although not transforming the shares into a matrimonial asset, should be taken into account. He had expended a total of $250,000 in this regard. There was no reliable evidence of whether and how much Company A repaid the husband for these sums. Hence, the court took the full $250,000 and added it back to the matrimonial asset pool.

*Division of assets – 30% for homemaker wife*

(f) The total value of the matrimonial assets was $1,700,024.45. The court upheld the district judge's award of 30% of the matrimonial asset pool to the wife, given the length of the marriage, the wife's primary caregiving role, and the husband's arguments about the wife's unilateral decision to stay in China. Interestingly, despite the wife working for some years during the marriage, it was treated as a single-income one.

*Costs of DNA test – borne by the party who questioned parentage*

(g) The district judge had ordered that the husband reimburse the wife for expenses related to the DNA test, including the flight tickets from China to Singapore. This was upheld by the High Court, which stated:

"*If a husband chooses to question the legitimacy of his own child and demand a DNA test, he sets in motion a deeply personal and potentially traumatic process – one that casts doubt not only on the child's identity but also on the integrity of the mother. Such a step, while undoubtedly permissible, carries emotional weight and consequences. Where the results ultimately confirm what the Wife has always maintained, namely, that the child is biologically his, there is an obvious irony in him then seeking to shift the financial burden of that inquiry onto her. It is he who raised the doubt, he who insisted on proof, and he who, when faced with the truth that categorically demolishes his doubts, should bear the costs of having asked the question. To do otherwise, with respect, would be to compound the emotional injury with a financial one, and to undermine the gravity of having called a child's parentage into question without just cause."*

### 1.4 *XNM v XNN* [2025] SGHCF 42

*11-year marriage, no children*

Forum: General Division of the High Court (Family Division)

**Brief facts:** In this case, the divorcing couple were married for just over 11 years and had no children. The wife commenced divorce proceedings on 17 October 2022, and interim judgment ("IJ") was granted on 8 May 2023. The main issue in the ancillary matters hearing was the division of the matrimonial assets.

This was a dual income marriage. The husband ran a business – he owned and controlled the company which managed the business and a wholly-owned subsidiary of the company, as the sole director. The wife was employed by the company for about 6-7 years of the marriage and was paid a monthly salary of $8,000 for her work.

**Key points:**

(a) The wife had $100,000 worth of jewellery and other luxury items, given to her by the husband. The court held that these "pure" inter-spousal gifts were matrimonial assets. The wife did not disclose information about her jewellery. Hence the court adopted the husband's declaration in his affidavit that he had spent $100,000 on the gifts to the wife.

(b) There was an outstanding mortgage loan and a term loan on the matrimonial home. The court noted that the husband gave evidence at the hearing that the amount of the loans was lower than that agreed between the parties in their Joint Summary. The court commended the husband and his counsel for making full and frank disclosure.

(c) The wife did not provide any explanation for how she valued the matrimonial home or another property owned by the husband along Newton Road. Hence the court took the valuations made by the husband based on recent sale records for both properties. There was a property in Belarus which both parties gave a value for, but without any evidence. In the circumstances, the court took the average of the valuation amounts.

(d) The husband claimed to owe numerous loans to his friends, taken out to support his business. However, the court found insufficient proof of these loans, and hence did not allow him to deduct these amounts from the matrimonial asset pool. However, neither did this mean, as the wife had submitted, that these amounts should automatically fall into the matrimonial asset pool. The husband's bank account monies had been included in the matrimonial asset pool, and there was no evidence that he had dissipated matrimonial assets.

(e) The husband had executed a personal guarantee in favour of a supplier for goods delivered to the company, which was worth $835,230.22. The court held that this was a contingent liability, and as at the IJ date, the husband was not liable to the supplier for any amount of money. There was no evidence that the company had defaulted or would default on payment. Hence, it was inappropriate to deduct the personal guaranteed amount from the matrimonial asset pool. Conversely, it was not appropriate to add this sum to the matrimonial asset pool. Even if the husband had the

ability to honour the guarantee, it did not mean there was in reality this additional sum somewhere which could be added to the matrimonial asset pool. The husband had also executed a guarantee of $30,000 for the wife in respect of her studies at the Nanyang Academy of Fine Arts – similarly, this was a contingent liability, and there should be no deduction in respect of it, from the matrimonial asset pool.

(f) The total matrimonial asset pool was $2,090,411.09. The wife did not make any direct financial contributions. The court decided on a 50:50 ratio for indirect contributions, as the husband had contributed more in terms of indirect financial contributions, but the wife had done the housework and supervised the part-time helper. The direct and indirect contributions ratios were accorded equal weight, since the parties had a single part-time helper only, and had lived together for most of the marriage.

(g) The overall ratio was 75:25 in the husband's favour. However, the court gave the husband a 5% uplift, because the wife had failed to make full and frank disclosure of her DBS bank account. She had not admitted its existence, despite the husband specifically requesting for disclosure of it, until the husband produced documents from separate civil proceedings to show that it existed. Even then, the wife only disclosed the last bank statement revealing that it had been closed. Hence the court was of the view that she had savings in the account which may have since been transferred out. Hence the eventual ratio was 80:20 in the husband's favour.

(h) No order on wife maintenance was made, given that the wife was well-educated, young, and would have more than $400,000 in assets from the matrimonial asset pool.

### 1.5 *Ng Chin Huay v Tan Tien Tuck and Tan Tian Koo* [2025] SGHC 145

*Third party claim on matrimonial assets*

Forum: General Division of the High Court

**Brief facts:** In this case, a husband (Tan Tien Tuck – TTT) and wife were involved in divorce proceedings. The wife claimed that 3 Singapore properties were part of the matrimonial asset pool (at least TTT's share in them): Sea Breeze (purchased 1995, joint tenancy between TTT, his brother TTK and his mother (originally TTT's father TBT was a joint tenant too, but passed away, so the other 3 became joint tenants of the whole property by the right of survivorship)); Langsat (purchased 1998 – TTT and TTK were tenants in common); and Haig (purchased 2002 – joint tenancy between TTT and TTT's mother (originally TBT was a joint tenant too, but passed away, so the other 2 became joint tenants of the whole property by the right of survivorship)). TTT's mother applied for a declaration that TTT and TTK held the properties on trust for her, asserting that she and TBT were the true beneficial owners and that the sons' names were used merely for convenience. (Note: TTT's mother and TBT had 6 children altogether.)

**Key points:**

(a) The wife argued that TTT had beneficial interests in all 3 properties, as he had used his CPF funds, joint accounts, and mortgage liability to acquire and service the properties. TTT's mother relied heavily on alleged oral agreements to support her position that the 2 sons had no beneficial interest in the properties. The court noted that there was a glaring paucity of contemporaneous evidence, extensive bare assertions, and a strong appearance of family collusion to shield assets from the matrimonial pool.

(b) The legal principles applied by the court were the well settled ones on resulting trusts, common intention constructive trust (CICT) and presumption of advancement, following the cases of *Chan Yuen Lan v See Fong Mun* [2014] 3 SLR 1048, *Su Emmanuel v Emmanuel Priya Ethel Anne and another* [2016] 3 SLR 1222 and *Lau Siew Kim v Yeo Guan Chye Terence and another* [2008] 2 SLR(R) 108. In summary:

(i) Equity follows the law unless displaced by clear evidence of trust or contrary intention – i.e. the default position is the legal ownership of the property

(ii) CICT requires compelling evidence of a shared intention at the time of acquisition.

(iii) Resulting trusts arise only where contributions are proven and no gift is intended; mortgage repayments matter only if linked to an agreement on ultimate liability, otherwise the court will just use the legal liability for the mortgage repayments when calculating the beneficial interest to the property.

(iv) Presumption of advancement remains strong in parent-child transfers, even in multi-child families, unless convincingly rebutted by the evidence.

(c) In this case, the court held on the facts that no common intention constructive trust (CICT) or resulting trust in favour of TTT's mother was proven:

(i) Sea Breeze: there was no credible evidence of sole funding of the property by the parents, and no evidence of an agreement that the parents would be solely responsible for the mortgage payments. There was also no evidence that TTT's parents treated the property as their own and made important decisions relating to the property without the involvement of the sons. On the contrary, the sons had used their CPF monies and joint account to service the mortgage and were legally jointly responsible for the loan. The parents had refunded the CPF monies to the sons 21 years after the mortgage loan had been redeemed, but this huge gap in time militated against the conclusion that there was an agreement at the time the loan was taken out that the parents would be the ultimate source of funds for the mortgage repayments.

(ii) Langsat: Similarly, there was no evidence of sole funding of the property by the parents, or any agreement that the sons would not have any beneficial interest in the property. There was no evidence that the monies to purchase the property came solely from the parents. The sons had serviced the mortgage using their joint account and were legally jointly responsible for the loan.

(iii) Haig: For the third property, there was evidence of TTT contributing funds, and no agreement at the time of the mortgage loan that the funding by the parents would be exclusive. TTT had also entered into 7 tenancy agreements for the property on his own, without the involvement of the parents.

(d) In any event, the presumption of advancement operated in favour of TTT and TTK as children. TTT's mother had failed to rebut it – there was no evidence that the gifts given to TTT and TTK were unequal (vis-à-vis the other children) or unintended.

(e) In the light of paragraphs (c)-(d) above, the court held that the beneficial interests should follow legal ownership:

(i) Sea Breeze – Joint tenancy among TTT, TTK and TTT's mother;

(ii) Langsat – TTT and TTK as tenants in common (50/50);

(iii) Haig – Joint tenancy between TTT and TTT's mother

(f) Point to note: courts will not entertain post-hoc attempts to re-characterise ownership in the absence of documentation, particularly where there are incentives to do so, like in a divorce situation.

### 1.6 *WQG v WQF* [2025] SGHCF 47

*Variation of AM order - lump sum child maintenance should not be used to purchase property*

Forum: General Division of the High Court (Family Division)

**Brief facts:** In this case, on 22 August 2023, the District Judge had ordered, amongst other things, that the matrimonial home be sold on the open market within 6 months, and after paying the outstanding loan and other sums, for the net sale proceeds to be divided 54% to the husband and 46% to the wife, with each party refunding their CPF accounts in respect of the monies withdrawn for the purchase of the matrimonial home, together with accrued interest. The wife had applied to vary this order, as she wanted the matrimonial home to be transferred to her, rather than sold. She proposed to make payment for the husband's share of the property by paying him a sum of cash, transferring a sum of CPF monies to him, and also setting off $153,900 from lump sum child maintenance to be paid by the husband ("the balance amount"). Alternatively, she asked for the payment of the balance amount to be delayed until June 2026. The Family Court dismissed her variation application, and she appealed to the High Court. The High Court dismissed her appeal.

**Key points:** The High Court was of the view that the wife's argument that child maintenance should be paid in a lump sum by the husband to fund her purchase of the matrimonial home to be neither fair nor tenable. The purpose of child maintenance was to pay for the child's daily living expenses, not to pay for the purchase of property. Also, lump sum child maintenance was normally not appropriate – it promoted a clean break between the paying parent and the child, which was usually not in the child's interests, and also hindered applications in the future for a variation, should circumstances change. Only in a case where the child was totally estranged from the paying parent and "not an infant", might the court accept a clean break solution. This was not the case here. The original order was not unworkable.

### 1.7 *XOY v XOZ* [2025] SGHCF 49

*22.5-year marriage, dual income, 2 children - no care and control order for 19-year-old*

Forum: General Division of the High Court (Family Division)

**Brief facts:** In this case, the parties married in June 2000 and had two children: C1 (aged 22 years) and C2 (aged 19 years). Both were studying in a local university at the time of the proceedings. The wife commenced divorce proceedings in October 2022, and Interim Judgment ("IJ") was granted on 14 December 2022. Thus, the marriage lasted for 22 years and 6 months.

**Key points:**

**Division of Matrimonial Assets**

*Operative date to determine matrimonial pool*

(a) The wife wanted to use the IJ date as the operative date for determining the matrimonial asset pool, but the husband wanted to use the date of separation (18 Aug 2017). The court decided that the IJ date should be the operative date. The court found a "continuous, albeit clearly attenuated, relationship" between the parties even during the separation period. The husband stayed at the matrimonial home for substantial periods, deposited his salary into the parties' joint account until November 2023, fully provided for the wife and children, and the wife continued to organise gatherings and meet the husband's parents and extended family until 2023. Both communicated with each other on various matters, largely involving their child. The court noted that while it could be argued that the parties were carrying out their responsibilities as parents instead of spouses, this dovetailed with the "concern of artificial distinctions between acts carried out as parents or as spouses…" They had not signed a deed of separation, which would have signalled a "clean break."

*Disputed assets*

(b) The husband had shares in Company A and Company B which he argued were not matrimonial assets, as the wife had not contributed to them. The Company A shares were acquired before IJ date. The court found that the husband had withdrawn substantial sums of monies from his account and the parties' joint account to pay towards the Howard Property (Company A's main asset) and Company A. The husband claimed he had paid Company A's monies into these accounts, and was only drawing on these monies. However, he did not keep a clear separation between the various accounts. The monies were co-mingled and it was difficult to ascertain that what the husband drew from the accounts were only Company A's monies. The wife would have an interest in monies acquired during the marriage, and in this light, could be seen to have contributed to the value of Company A's shares. Also, she indirectly contributed to the household by running the household with the help of a domestic helper. Hence, the court held that Company A's shares were matrimonial assets. For the same reasons, the 30,000 shares in Company B acquired by the husband pre-IJ were considered to be matrimonial assets. However, the 55,000 shares acquired by the husband post-IJ were excluded from the matrimonial asset pool.

*Classification vs Global Assessment methodology*

(c) There was also the issue of whether the classification methodology as opposed to the global assessment methodology should be used for these shares. The court decided on the latter, since the husband had not shown that the indirect contributions of the wife were substantially attenuated after their separation.

*Valuation*

(d) The court made various findings on the value of the company shares and 2 properties which were in the matrimonial asset pool. The value of the total matrimonial asset pool was $6,121,843.66.

(e) At the ancillary matters (AM) hearing, the wife filed an application to adduce a late valuation report on a property (the Howard Property) (held via Company A), which the court dismissed. Her application came too late in the day, and the husband should be given the chance to respond if the valuation report was admitted, which would have required vacating the AM hearing, which the wife's counsel confirmed was not their intention. The value of the Howard property could still be assessed without the report, as both parties had earlier filed reports from their respective valuers. (Thus, the report the wife was applying to file was an extra).

*No adverse inference*

(f) The wife had alleged the husband had dissipated or concealed various sums, including 15 withdrawals from the parties' joint account, and a loan he made to a friend. However, the court declined to draw an adverse inference against the husband. There was no prima facie evidence that the husband was concealing or had dissipated assets. Just one point of interest: In respect of 15 withdrawals from the parties' joint account, the wife had requested for discovery and interrogatories against the husband regarding these withdrawals, which he had responded to. She did not take issue with his responses, nor request for further explanations, information or documents. The husband had also loaned a sum to a friend, and the wife did not ask for further information or documents in relation to it. The court was of the view that it would be unfair for an adverse inference to be drawn if the wife did not ask for further particulars or express dissatisfaction with the adequacy of the husband's response.

*Ratio of division*

(g) The direct financial contributions ratio was 83.32:16:68 in the husband's favour. The indirect contributions ratio was 65:35 in favour of the wife. She was the primary caregiver of the children, while the husband was the main source of indirect financial contributions. The wife had been a full-time homemaker from 2000-2007 (though she took part-time jobs from 2002 to 2003). She took up part-time project management and insurance work from 2009 to 2013. She had the time to take care of the household, unlike the husband who had a very busy work schedule and travelled frequently. The wife had also sacrificed to support the husband's career by accompanying him to the US for his studies for 1.5 years, and also to Canada when he went there for training from 2004-2005 (the latter time having to care for C1). Equal weightage was given to direct and indirect contributions. The overall ratio was 65:35 in the husband's favour.

*Custody and Care and Control of C2 – no care and control order*

(h) Both parties were agreeable to joint custody, but each wanted care and control. C2 filed an affidavit in the mother's favour. The court interviewed C2.

(i) After reviewing the authorities, the court held that it could make a no care and control order. There was nothing in the Women's Charter that mandated the ordering of a care and control order in circumstances where a joint custody order was made. In this case, as C2 was already 19 and about to enter university, she would have sufficient maturity and independence to take charge of her day-to-day decision-making. A formal order of care and control in this regard would be superfluous. There was no actual dispute between the parties over any matter of weight in relation to C2's living arrangements. During the judicial interview, C2 indicated that she preferred to have the flexibility to decide for herself who she would stay with when she was not living in the university hall. Her affidavit had stated that if she did not have to choose, she would not, and she wanted to spend time with both her parents as much as possible. The court was of the view that the relationship between the parties was such that they would be able to co-operate sufficiently to make a shared care and control order workable.

(j) This appears to be a novel point of law in Singapore, as previous cases did not directly address the possibility of "no order" on care/control where joint custody exists.

**Maintenance**

(k) No child maintenance was ordered for C1 as she was over 21 years of age – despite both parties agreeing that there should be child maintenance for her. The court stated that she should file a maintenance application for herself.

(l) The husband was ordered to pay $3,000 for C2's expenses and the wife was to contribute $750 to C2's expenses. This apportionment (of 80:20) roughly reflected the parties' respective monthly incomes of about $7,000 for the wife and about $26,000 for the husband. The husband was to pay for school fees and health insurance policies directly to the relevant organisations, and the remainder to C2 directly. The mother would also pay her contribution to C2 directly. The court assessed that C2 was mature and confident enough to handle her own finances, so neither party would need to channel their contributions through the other, which would reduce the sources of tension between them.

(m) No maintenance was ordered for the wife, since she was employed and had significant assets of her own. She claimed that her expenses were greater than her income, but the court assessed her expenses as lower, disallowing items such as vacations (which were luxuries), charitable donations and gifts, a car (since there was no special need for her to have a car), and a domestic helper (since she would be in a smaller household – the children would be staying in university halls most of the time).

## 2. Custody, Care and Control

### 2.1 *XPG v XPH* [2025] SGHCF 45

*Sole custody awarded for 14-year-old boy; 13-year marriage, dual income*

Forum: General Division of the High Court (Family Division)

**Brief facts:** In this case, the parties married on 1 February 2009, and interim judgment was granted on 25 February 2022. They had a son aged 14 years at the time of the ancillary matters hearing.

**Key Points:**

**Custody, care and control, and access – sole custody granted on account of parties' acrimonious relationship**

(a) The parties agreed on joint custody, but the wife wanted the "casting vote" regarding "medical and education decisions", as well as sole care and control. The husband wanted shared care and control. The court noted that where both parents have an acrimonious relationship, such as the present parties, a shared care and control order is not only impractical, but would give rise to even more occasions for quarrel. Hence, the court did not make a shared care and control order.

(b) Interestingly, the court was of the view that "shared custody" (the judge's term for joint custody) would not work as the parties' relationship was acrimonious, and the parties would likely not co-operate to make decisions for the child, let alone major ones. Mediation and counselling had been attempted but had failed. As the wife had been the child's primary caregiver in recent years, the court ordered sole custody, care and control to be given to the wife, with access to the husband.

(c) This seems to contradict the case of *CX v CY* [2005] SGCA 37, which stated that "…the notion that joint custody should only be made where there is a reasonable prospect that the parties will co-operate is no longer appropriate in this day and age…" (per Lai Siu Chiu J, at paragraph 24), and "..that joint custody can still be ordered even if there is an apprehension that that the parties may be unable to agree….Recent cases have revealed an emerging trend where the courts are no longer inclined to assume that sole custody orders should be made simply because parents display animosity towards each other in the midst of litigation." (per Lai Siu Chiu J, at paragraph 29).

(d) The court in this case did not seem to make a finding on which parent's narrative was the right one, but seemed to be influenced by the fact that the husband's counsel filed more than 200 pages of submissions and the wife's counsel filed submissions of 74 pages. Notably, the child was interviewed by Debbie Ong JAD in March 2023, after which all contact between the husband and the child ended. Ong JAD had noted the child's strong resistance to seeing his father, and the child's views of his father being overly focused on academic achievements – for example, making the child complete his Chinese tuition homework while crying as he sat on the wife's lap, and unilaterally withdrawing the child from floorball, which the child enjoyed, in favour of tennis, which the husband believed would provide better chances for direct school admission.

Other points (brought up by the wife) which the court noted – the husband was an Australian citizen and Singapore PR who had been unemployed since 2013, and the wife argued that he might potentially return to Australia, which might make it difficult to obtain his timely consent for the child's medical and educational decisions; the child also showed an extreme aversion to his father, for example after interim orders were made on 14 July 2022 for overnight access with the husband, the child spoke to his principal about his fear of seeing his father, and threatened self-harm. After the access, the child ran away from the matrimonial home where he had stayed with his father and crossed a busy road to escape. On 22 July, the husband attended at the wife's residence wearing a recording device and insisted on having access to the child, and when this was refused, he called the police, creating a scene, resulting in the child needing more counselling.

(e) The child had expressed on multiple occasions that he wished to have no contact at all with his father. The court therefore appointed an independent counsellor to assist with reunification between the husband and the child. The husband and child were to have weekly half-hour calls by videoconference in the presence of the counsellor for 6 months from the date of the appointment of the counsellor. If there was no progress, then the arrangement was to continue for another 6 months. Thereafter, the parties could apply for a variation of the access orders depending on the development in the husband's relationship with the child.

**Division of the matrimonial assets**

(f) The division of the matrimonial assets was also in issue. The issues were mostly factual. A few points of interest:

(i) The wife had various items of jewellery which the husband claimed should form part of the matrimonial asset pool. The purchase prices of these items were known. However, the wife had obtained informal valuations from several pawnshops, and the employees told her that the items had no resale value. The court held that without an expert valuer's evidence, it would be more appropriate to adopt the purchase prices, rather than informal pawnshop valuations, as the estimated values. On this matter, the court agreed with the husband's view that the wife's effort in the disclosure exercise was poor. All she did in her first affidavit of assets and means was to list her jewellery without any detail such as the estimated value. She should have accepted the husband's proposal to obtain an expert valuation for the jewellery.

(ii) There were 7 disputed items of jewellery amounting to a total of $13,360.51, and each piece ranged from a few hundred dollars in purchase price to $5,000 or less. The court accepted that the wife could not recall these purchases, as they were bought a decade ago, and since they were of lower value, were unlikely to be of significant value now. Since there was no market valuation, the court excluded them from the pool of matrimonial assets.

(iii) There was documentary evidence showing the husband's contributions to 2 bank accounts in his name during the marriage and the balance in the accounts before the marriage. Therefore, the court accepted the husband's position that only

39.7% of the amounts in one account and 18.2% in the other account were earned during the marriage.

(iv) There were 2 joint assets in the form of investment accounts. The husband showed that he was the sole contributor to these assets, but could not show which pre-marital assets the present joint assets originated from. Hence the court held that these were matrimonial assets.

(v) The court also rejected the husband's argument that the interest earned during the marriage from his bank deposits and Singapore Savings Bonds were pre-marital assets (as opposed to the principal sum). The dividends he received during marriage from his pre-marital assets should also be considered matrimonial assets.

(vi) Some portion of the joint assets and the husband's sole name assets could be attributed to his pre-marriage assets, especially since the husband had retired 4 years into the marriage. However, tracing of his assets after more than a decade was impossible. The appropriate solution was to include all the disputed assets within the matrimonial asset pool and then make adjustments to the average ratio subsequently to account for the husband's pre-marital assets. In this case the wife had assisted the husband in the management of at least some of his assets and thereby helped to increase the value of some of the assets. He had transferred at least $4 million to her during the marriage, for this purpose. The wife had opened accounts and transferred funds to fixed deposits to earn more interest and also spent some of these funds on the purchase of the matrimonial home. She also paid taxes on the interest earned from the Australian fixed deposits in her name.

(vii) The value of the matrimonial assets was $8,673,727.12. The court had calculated the ratio of the direct contributions to the matrimonial home (96 (husband): 4 (wife), and adjusted it based on the net value of the property, finding that the husband had contributed $2,352,240 and the wife $98, 010 ("the husband's approach"). The wife said that this was not fair to her because a significant percentage of the capital gain would be attributed to the husband. Since there was no evidence of the wife's direct contributions aside from her CPF contributions, however, the court was of the view that it would be equitable to adopt the husband's approach. The eventual direct financial contributions ratio (for all the assets in the matrimonial asset pool) was 72:28 in the husband's favour.

(viii) Regarding indirect contributions – the husband had provided a lot of documentation showing his contribution to the household expenses and also the activities he did with the child. However, the court was of the view that the wife's contributions to the family could be clearly seen from how the child now had a much stronger emotional bond with her – she had provided emotional support and stability to the family. Although the husband's intentions may have been well-meaning, the current state of his relationship with the child suggested that his focus on academic achievement and structured development had unintended negative consequences. Activities and the amount of time spent were not the only measure of indirect contributions – the quality of the time spent

with the child was also important. The court found that both parties had made substantial indirect contributions to the marriage, in a ratio of 50:50.

(ix) The average ratio was 61:39 in the husband's favour. There was no adjustment for the husband's rent-free occupation of the matrimonial home, as the wife had moved out of her own accord, into a property she had purchased (and hence had not incurred additional rental costs). The court adjusted the ratio by a further 8% in the husband's favour as a clear inference could be drawn that a substantial portion of the matrimonial asset pool consisted of the husband's pre-marital assets. The final ratio was therefore 69 (husband): 31 (wife).

**Child maintenance**

(g) On child maintenance – a few points of interest:

(i) the court excluded items which the wife would have incurred whether or not the child stayed with her, namely internet and cable TV, replacement of electric items, maintenance, repairs and property tax for her home.

(ii) Car-related expenses were allowed at $100 monthly on the basis that the wife would drive the child around and her car-related expenditure, such as petrol, would increase.

(iii) As part of the household expenses in which the child had a share, the wife claimed $51 for Christmas presents and Christmas dinner, as well as $83 for Deepavali "angpows" and Deepavali goodies and decorations. She also wanted $137 for "pet food" and $88 for "pet grooming" and "vet services". (It was not clear from the judgment whether the pet was a family pet or the child's own pet.) The court noted that these expenses may not amount to much, but parties should pay for such expenses from their own general basket of income.

(iv) The wife had enrolled the child into an international school, given his PSLE score which placed him in Express/Normal Academic stream, and his unsuccessful attempt to secure a place at his preferred secondary school. She thought an international school would be better for his learning and mental health. The husband objected to this, on the basis that he had not been consulted on the decision, and thought the child should attend a local school. The court held that the child should continue in the international school, given that he had already spent 1.5 years there, and his academic progress and emotional well-being might be affected if his schooling was disrupted. However, the wife should have consulted the husband first – since she did not, she should bear the bulk of the school fees. Hence, the husband's liability for the school fees was limited under the maintenance order to $1,500 (whereas the wife had paid $23,838 in non-refundable fees in July 2023, months before the child's PSLE results were released. She had requested $3,080 per month for the school fees.)

(v) Birthday presents/occasions/holiday were also excluded as part of the child's personal expenses – presumably because they were luxuries, though the court did not specifically state this.

(vi) The eventual child maintenance amount the husband was ordered to pay was $2,281.65 a month. The court did not allow lump sum child maintenance, which the wife had requested, since there was no evidence that the husband would default on his maintenance obligations, and the child's needs were likely to change, as he was a teenager and would begin his tertiary education in the near future. However, backdated maintenance of $60,000 was ordered, payable in one lump sum, as the husband had not paid for the child's expenses since March 2021, aside from a few payments.

## 2.2 *XII v XIJ* [2025] SGHCF 48

*Relocation of child*

Forum: General Division of the High Court (Family Division)

**Brief facts:** In this case, the mother and father married in Australia in 2014 and divorced there in May 2024. They had two sons, aged 10 and 8. The mother was an Australian citizen, and the father was a British citizen. In 2017, the family moved to Kuala Lumpur, and then to Singapore in 2021 for the father's work. However, by the time they moved to Singapore, the parties' relationship had already broken down, and the parties lived separately after a week upon arriving in Singapore. The father held a OnePass, valid until December 2028, and eventually intended to apply for Singapore Permanent Residency. The Mother's dependent's pass in Singapore expired in 2023 and her Long Term Visit Pass (LTVP) application was rejected in December 2024. She relied on short-term visit passes to live in Singapore. The Children held Australian citizenship. They were on a dependent's pass and student pass respectively in Singapore.

The parties had a shared care arrangement for the children. They attended international school, and the mother cared from them from 8:30 am on Sundays to either Wednesdays or Thursdays before school on alternate weeks, and the father cared for them the rest of the time.

In May 2023, the mother applied for care and control and leave to relocate the children to Brisbane, Australia. The father cross-applied for shared care and control. The District Judge rejected the mother's relocation application in January 2025, granting care and control to the father with liberal access to the mother. The mother appealed. The High Court dismissed the appeal.

**Key points:**

(a) The mother had asserted that there was no shared care and control arrangement, as the father relied heavily on his mother and helper to look after the children when they were in his care. The court held that this reliance was not wrong in principle. The father had a full-time office job, and it was reasonable for him to seek assistance from his mother and the helper in discharging some aspects of his caregiving responsibilities, for example the logistics of bringing the children to and from school and enrichment classes. The father was actively involved in the children's lives – there was evidence of this in the Custody Evaluation Report ordered, as well as feedback from the children's school.

(b) The parents had in fact had extensive discussions before implementing the shared care and control arrangements and had the common understanding that they should each have an equal amount of time with the children. Thus, there was no primary caregiver. Both parties were co-parenting equally,

(c) In relocation cases, the welfare of the child is paramount. Relevant factors include: the relocating parent's reasonable wishes, the concreteness of the relocation plan, the loss of relationship with the left-behind parent, the children's age and wishes, the stability of arrangements, and each parent's caregiving ability. No presumption exists in favour of relocation simply because the primary caregiver wished for it.

(d) The mother's wish to relocate was reasonable – but the shared care arrangement affected the weight to be given to her wish.

(e) The mother's relocation plan was largely speculative and unsupported by concrete arrangements. There was no evidence of her securing employment in Australia, so there was no information of her working hours and financial security. She intended to live in a particular property in Australia. However, that was one of the matrimonial assets which was the subject of litigation between the parties in matrimonial proceedings in Australia. She might not retain that property, and this might impact her plans on where the children should go to school, as she had obtained places in a state school near the property (which was conditional on their residing in the property). In contrast, the children's living arrangements in Singapore were stable.

(f) The elder child clearly wished to remain in Singapore or Malaysia. The younger child was neutral. The Custody Evaluation Report showed that both were aware of the consequences of their choices. There was no evidence of undue influence by the father. Courts generally avoid separating siblings. Thus, the children's wishes weighed against relocation.

(g) The children only lived in Australia for 1-2 years before the family's move to Malaysia in 2017. They did not have particularly strong ties to Brisbane, which was where the mother wished to relocate to.

(h) Relocation would cause significant loss of the father's close bond with the children, which the evidence showed was strong. The father was a law firm partner in Singapore. He could not realistically work from or frequently travel to Australia. His client base was in Asia and his career prospects and salary would be negatively impacted by the move. His employer would also have additional tax liability if he were in Australia for more than 30 days across a rolling 12-month period.

(i) The father might have difficulties getting access to the children if they moved to Australia – the mother appeared to have a deep personal animosity towards him, which she could not get past. In contrast, the father offered to facilitate the mother's travel to Singapore, and had agreed to have a professional Parenting Co-ordinator support the children's access with the mother. Thus, it appeared that the probability of the children being able to see more of both parents was greater if they were based in Singapore.

(j) The children were to remain in Singapore with the father, who retained care and control. Given the mother's inability to secure an LTVP and having regard to the state of the parties' relationship and their litigation over the children, the court was of the view that shared care and control was no longer feasible. However, liberal access for the mother was preserved (including liberal phone and video access, and equal share of the school holidays, and the mother being at liberty to bring the children for overseas holidays during her holiday access time with the children). The court further ordered that:

    (i) The father must provide the mother with two annual return air tickets and $2,000 living expenses for each trip to Singapore.

(ii) The mother would have daily unsupervised access during her visits, including weekends with overnight access.

(k) The court also emphasised that refusal of the mother's relocation application now did not preclude a future relocation application if circumstances changed.

(l) These would be the learning points from the case:

(i) When both parents are equal caregivers, the relocating parent's wishes carry less influence.

(ii) Speculative relocation plans are insufficient — concrete arrangements for employment, housing, and schooling are extremely important.

(iii) The children's views matter — their preferences, when age-appropriate and informed, would be of significant weight.

(iv) Loss of the relationship with the left-behind parent remains a key factor, particularly where bonds are strong and access post-relocation may be difficult.

(v) The court can make orders to facilitate access where relocation is denied, including financial support for cross-border travel by the access parent.

### 2.3 *XLK v XLJ* [2025] SGHCF 50

*International child abduction - non-Hague Convention country*

Forum: General Division of the High Court (Family Division)

**Brief facts:** In this case, the parties were Chinese nationals, and got divorced in China. The Chinese courts gave custody, care and control of the child of the marriage, a boy, to the mother. The boy was born in 2019. The father challenged the court orders, all the way to the final court in China, and failed. However, he nonetheless took the boy to Singapore, where his mother looked after the child. The mother applied for custody of the child in Singapore under the Guardianship of Infants Act. The father filed a cross-application asking for joint custody and access orders. The district judge granted the mother's application and dismissed the father's application. The father appealed.

**Key points:**

(a) The High Court upheld the district judge's decision. The court noted that this was a case of "outright child abduction", and that "The doctrine of comity of nations has immense force on the facts of this case, and on that basis alone, the appeal ought to be dismissed…". The court also noted that the only reason the child was brought to Singapore was to register him in an international school, and the claim that this was in the child's best interests was not persuasive. Neither parent had long term passes to be in Singapore. In addition, the court was of the view that it was in the best interests of the child to be with the mother. (It did not specifically state why, but it was likely because the child was young.)

(b) Hence, it looks like Hague Convention principles might apply for a child abduction case, even if it was not a Hague Convention country that the child was abducted from.

## 3. Child maintenance

### 3.1 *UXL v UXM* [2025] SGHCF 51

Forum: General Division of the High Court (Family Division)

*Child maintenance for shadow support for child with Autism Spectrum Disorder*

**Brief facts:** In this case, the divorcing parties had 2 sons, now aged 12 and 10 years old. In December 2019, the High Court had ordered the father to pay maintenance of $2,000 a month for each child. The mother applied to vary this order by increasing the amount to $16,800 and $15,000 to the older and younger sons respectively.

**Key points:**

(a) The High Court hearing the variation application was of the view that even in 2019, $2,000 a month for each son was a fair amount. Even though 6 years had elapsed since this time, $2,000 a month for each son still seemed adequate. The maintenance amounts applied for by the mother were excessive. For example, she claimed $3,200 for food for one of the children, but the court was of the view that $20 a day for meals ($600 a month) was sufficient. The mother claimed that the child had a sensitive mental condition and needed to eat at expensive quiet restaurants – the court did not accept this. However, the elder child was diagnosed with Autism Spectrum Disorder, and his psychologist had suggested he be enrolled in a school with smaller class sizes. However, the mother thought it would be best for him to remain in his current school, and had hired a shadow support to follow him to school and assist him in his PSLE preparation in September 2025. The court was of the view that this was a reasonable expense, since it would not be ideal for the child to change schools in view of his impending PSLE. However, the shadow support should not be a permanent expense. Hence the court only ordered backdated maintenance for the cost of the shadow support from August 2024 to September 2025 – about 12 months. This would cost about $26,400 – the father was ordered to pay his half share of $13,200. Aside from this there was no substantial change of circumstances which rendered the original maintenance orders inadequate. Thus, the application was allowed only in respect of the $13,200 sum.

(b) The court also noted that both parents were wealthy. However, it did not follow that maintenance should increase in proportion to the capacity of a parent to pay, with no limit to the increment. The court stated: "*When wealthy parents wish to spoil their children with expensive toys and feed them Michelin-starred meals, they can do that on their own accord. But when there is a dispute, the courts will determine what maintenance is reasonable and adequate for the child needs, not what the parents want him to have or what the child himself would like to have.*"

### 3.2 *VBR v VBS* [2025] SGHCF 54

Forum: General Division of the High Court (Family Division)

*Child maintenance variation*

**Brief facts:** In this case, the parties divorced, with the interim judgment being granted on 16 August 2017, and the ancillary matters order being made on 16 August 2019. There were 2 children presently aged 16 and 13 years old. Parties had joint custody of the children, with the mother having care and control, and the father having access.

There were 2 summonses filed in respect of the children's maintenance, and on 1 November 2024, the district judge had ordered the father to pay $2,600 a month for the children's maintenance, as well as 57.5% of the monthly school fees, at $580 per child.

The father had appealed this decision. The High Court allowed a couple of items in his appeal, but dismissed the rest.

**Key points:**

(a) The court excluded items which the mother would have incurred in any event, whether or not she had care and control, from the assessment of the children's expenses, namely service and conservancy charges, and also internet usage (i.e. wi-fi subscription). However, a single subscription to a streaming service was allowed. Hence the $20 a month amount per child for "Internet/Mobile" was reduced to $10 per child.

(b) The court allowed repair expenses to be considered in assessing the children's expenses, as there would be more wear and tear with more occupants in the house.

(c) The father had argued that his high personal expenses should be considered in the assessment of the maintenance amount. The court rejected this argument as it was of the view that the father had taken on significant financial obligations on his own accord, namely, he had chosen to buy a condominium and hence had to pay the mortgage and maintenance fees for it, which together were higher than his previous rental for an HDB flat. Secondly, he had chosen to pay 75% of the mortgage with cash rather than his CPF monies.

(d) Although the father's expenses could also be factored in for the apportionment of the maintenance, the court was of the view that his expenses were unreasonable and self-interested (as per (c) above), and hence did not factor these in for the apportionment of the maintenance amount. (The father had wanted a 50:50 apportionment, but the court had ordered him to pay a higher proportion of the children's maintenance expenses, as he earned more than the wife (who was currently unemployed). The court found that he earned $11,787.30 a month, while his personal expenses were $6,871 a month - so he could afford the maintenance amount.)

(e) Points to note: It is important to ask whether an expense for the child would have been incurred anyway, whether or not the parent had care and control - the High Court went into real detail over a rather small amount ($20 a month per child for internet/mobile)

for this case. The court will also scrutinise the reason for a paying parent's expenses before taking it into account when deciding how much and what proportion of the children's maintenance he should pay. Essentially, the expenses need to be things which are reasonable for him to pay, rather than things which he could have saved on, but chose not to.

## 4. Procedure

### 4.1 *VTP v VTO* [2025] SGHCF 52

Forum: General Division of the High Court (Family Division)

*Further extension of time to file a notice of appeal*

**Brief facts:** In this case, the wife commenced divorce proceedings at the Family Court in 2019 against the husband. The interim judgment was issued in April 2021 and there were multiple tranches of ancillary matter hearings from October 2022 up until 27 September 2024 ("Final AM Hearing"). The husband was absent from the Final AM Hearing and orders were made in his absence on 27 September 2024 ("AM Orders").

2. The husband who was dissatisfied with the AM Orders, filed an appeal to the High Court on 11 October 2024 – i.e. the last day to file his appeal. However, as the husband's appeal was not filed under the correct division of the Family Justice Rules 2014, his appeal was rejected. The husband tried to re-file his appeal on 14 October 2024 but was out of time by then.

3. The husband did not immediately apply for an extension of time to file his notice of appeal ("EOT Application") and instead wrote to the High Court to request for a waiver of the filing fees for the EOT Application ("EOT Fee Waiver"). The husband subsequently attended at LAB on 2 December 2024 and was advised to file his EOT Application immediately. The husband did so on 3 December 2024 without the EOT Fee Waiver and he was granted an extension of time by the High Court in March 2025 to file his appeal by 4 P.M. on 7 April 2025.

4. However, the husband did not file his appeal by the deadline. Instead, he filed a further application on 7 April 2025 to request for more time to file his appeal (i.e. a further 28-day extension) ("Further EOT Application"). In particular, the husband wanted time to revisit the EOT Fee Waiver issue and make a further request for a waiver of the appeal fees and security for costs ("Appeal Fee Waiver") from the High Court.

**Key points:**

(a) The High Court dismissed the Further EOT Application. The High Court held that the focus should be on why the husband failed to file his appeal despite the extension of time granted and strong justifications must be shown. In the present case, there were none.

Reasons for the delay

(b) The husband's primary reason for the delay were his financial difficulties. However, these were not sufficient to justify the Further EOT Application. This was especially since the High Court noted that the husband was able to travel, carry out business and own property in India. Even if the husband did not have monies, he had ample time to raise funds from relatives or other sources, but he did not do so. Lastly, while the husband wrote to the High Court for the EOT Fee Waiver and Appeal Fee Waiver, no formal application was filed by him despite being informed to do so.

*Length of delay*

(c) There was already a long delay of 53 days between the date that the husband filed the EOT Application (i.e. 3 December 2024) and the original appeal deadline of (11 October 2024). Despite this, the husband was allowed to file his appeal by 7 April 2025, however, he did not do so. With the Further EOT Application that was filed on 7 April 2025, nearly 6 months would have passed since the original appeal deadline. In fact, the husband continued to request for an adjournment of the hearing for the Further EOT Application after it was filed.

*Prejudice to the wife*

(d) The Further EOT Application would cause prejudice to the wife that could not be adequately compensated by costs especially if the husband was requesting for a waiver of the security for costs of his appeal in his Appeal Fee Waiver. Moreover, if the Further EOT Application was granted, the husband was likely to file a formal application for the said waiver and the wife would have to spend time and resources to respond to the same instead of the actual appeal. Lastly, the husband owed the wife more than $37,000 in costs from other court proceedings since August 2021 that remain unpaid to date.

(e) Point to note: The practical takeaway from this case in respect of appeals, is to file the notice of appeal early and not wait until the last day of the appeal deadline to do so. For cases where an extension of time to file an appeal has been obtained, the same rule will apply – i.e. to file before the last day of the extended deadline. Otherwise, there may not be any further extension of time granted to file an appeal unless there are strong justifications to explain why the earlier extension was not complied with.

### 4.2 *XLM v XLN* [2025] SGHCF 53

*Interim applications*

Forum: General Division of the High Court (Family Division)

**Brief facts:** In this case, the parties had a 3-year-old child, and they were all Indian nationals. The parties were both currently working and residing in Singapore with the child. The husband earned a monthly income of $10,000 and the wife earned $8,000 per month.

**Key points:**

(a) The wife filed divorce proceedings in India while the husband commenced divorce proceedings shortly thereafter in Singapore. The wife successfully applied to stay the Singapore divorce proceedings on the basis that India was the more appropriate forum to determine the divorce proceedings.

(b) Thereafter, the wife applied for interim maintenance ("IM Application"), amongst other applications, against the husband in Singapore. The husband applied to stay the IM Application but was unsuccessful because the lower court held that:

  (i) it would be inconvenient for parties (who were all based in Singapore) to return to India for an interim maintenance; and

  (ii) any order made under the IM Application in Singapore would be temporary. The final orders would still be heard by the Indian court. In other words, the lower court was not persuaded that India was the more appropriate forum to hear the IM Application.

(c) The husband appealed against the lower court's decision. The High Court allowed the appeal and stayed the IM Application for the reasons below:

  (i) The Singapore court should be slow to intervene in any interim applications especially since:

    (1) there was a divorce action in India;

    (2) the divorce proceedings in Singapore had been stayed;

    (3) The parties and the child were Indian nationals; and

    (4) the Indian Court would hear both the divorce and ancillary matters (including maintenance). The Singapore court should only make an order for interim maintenance if there were strong reasons and it was in the interests of justice to do so.

  (ii) There was no reason why the wife could not apply for interim maintenance in India, especially when she had executed a power of attorney to her sister in India;

(iii) An assessment of maintenance requires the disclosure of parties' assets (which were in India). Therefore, any orders for disclosure and enforcement should be made by the Indian Court; and

(iv) The wife earnd about the same amount as the husband in Singapore. Therefore, there was no pressing need for any orders on interim maintenance to be made by the Singapore Court.

(d) Point to note: In short, the takeaway is that the Singapore court is unlikely to hear any interim maintenance applications in cases where the divorce and related proceedings will be heard by a foreign court, unless there are strong reasons and it is in the interests of justice to do so.

### 4.3 *WJY v WJZ* [2025] SGHC(A) 14

*Inherent jurisdiction of the court to set aside an order/judgment to prevent injustice*

Forum: Appellate Division of the High Court

**Brief facts:** In this case, the divorcing couple went for an ancillary matters hearing, in which the district judge decided, amongst other things, that the wife would not have a share in a property bought by the husband in his own name. The wife appealed. On appeal, the High Court awarded the wife a 48% share in the property ("the DCA judgment"). The husband then applied for permission to appeal against the High Court's decision. The Appellate Division ("AD") refused permission to appeal ("the PTA decision").

The husband then applied to ask the AD to set aside the DCA judgment and the PTA decision under section 35 of the Supreme Court of Judicature Act ("SCJA"). He alleged that the High Court was biased against him, amongst other things, when making its decision - hence it was a breach of natural justice.

**Key points:**

(a) The AD summarily dismissed the application under section 38 SCJA, after the husband was given the opportunity to show cause, by way of written submissions. This was on the basis that the AD had no jurisdiction to hear and determine the application.

(b) Under s 35 SCJA, the AD can hear appeals from the General Division of the High Court. It also has inherent jurisdiction to set aside a judgment or order of court obtained irregularly, through fraud, or in default of appearance. (This is not an exhaustive list – the principle is that the court's jurisdiction has not been properly exercised in relation to the decision being sought to be set aside, in a breach of natural justice. However, the relevant court must have jurisdiction to hear the matter in the first place.)

(c) The application to set aside the DCA judgment was not an appeal before the AD. There is also no inherent jurisdiction to set aside a decision which the court itself had not made. Hence, the AD had no jurisdiction either under s35 SCJA or its inherent jurisdiction to hear the matter. In respect of the application to set aside the PTA decision - this was not an appeal either, and there was also no allegation that there was a breach of natural justice in respect of the PTA decision.

(d) The court was of the view that this was a backdoor attempt to relitigate the merits of the case.

## 5. Probate

### 5.1 *Cheng Tze Tzeun v Dang Lan Anh* [2025] SGHC 112

*Marriage of convenience valid but husband died - Benjamin Order*

Forum: General Division of the High Court

**Brief facts:** In this case, the deceased married the Defendant in January 2011. The Defendant was deported for immigration offences in June 2011 after being arrested for vice activities. The deceased passed away in January 2012. The family only learned of the marriage when notified about the distribution of the deceased's CPF monies in March 2012 by the Insolvency and Public Trustee's Office ("IPTO") – i.e. that the Defendant was entitled to a portion of the deceased's CPF monies.

2. The marriage appeared to be a marriage of convenience. The deceased never mentioned to his family regarding his marriage and continued to live with his sister, with whom he owned an HDB flat as a joint tenant and later as a tenant in common with a 14% share. The deceased was deep in debt before the marriage, but his financial troubles appeared to have been resolved around the time of marriage.

3. The Claimant (the son from the deceased's first marriage – the deceased had divorced the Claimant's mother, his first wife) applied for a declaration that the marriage between the deceased and the defendant was void as a marriage of convenience, and that the deceased's assets were to be distributed among the deceased's immediate family members, excluding the Defendant. The Defendant did not enter an appearance after being served with the application. The Claimant had also written a letter into the court to ask for additional orders, i.e. the Claimant be entitled to apply for the Grant of the Letters of Administration without needing a Renunciation and Consent from the Defendant; for a dispensation of the administration bond; and that the Claimant be at liberty to administer and distribute the deceased's estate. The court was of the view that these orders sought were misconceived and made no order on the application.

**Key Points:**

(a) Section 11A of the Women's Charter, introduced in 2016, made marriages of convenience void, but only for marriages solemnised on or after 1 October 2016 ("Section 11A"). There was conflicting High Court authority on whether marriages of convenience solemnised before 1 October 2016 were valid. (Earlier cases stating that such marriages were valid: *Tan Ah Thee and another (administrators of the estate of Tan Kiam Poh (alias Tan Gna Chua), deceased) v Lim Soo Foong* [2009] 3 SLR(R) 957; *Toh Seok Kheng v Huang Huiqun* [2011] 1 SLR 737; *Soon Ah See and another v Diao Yanmei* [2016] 5 SLR 693). Later cases stating that such marriages were invalid: *Gian Bee Choo and others v Meng Xianhui* [2019] 5 SLR 812 and *Kee Cheong Keng v Dinh Thi Thu Hien* [2025] SGHCF 15.) The court in this case decided to follow the earlier line of authority.

(b) This is because Section 105 of the Women's Charter exclusively provides the grounds for void marriages – declaring them void on the basis that the parties had committed a crime by entering into a marriage of convenience, and had committed a fraud on the

Registrar of Marriages by not declaring a lawful impediment to the marriage (i.e. the intention to enter into a marriage of convenience) would be creating a new ground for void marriages. Creating a new ground for void marriages could diminish the institution of marriage. Parliament had clearly specified the operative date of Section 11A – it was not retrospective. The criminalisation of marriages did not automatically make them void. The court had no statutory discretion to consider public policy in declaring a marriage void other than the grounds in Section 105.

(c) Therefore, the proper course of action for the Claimant would be to:

(i) *Estate assets:*

(1) In respect of the estate's assets: apply for letters of administration at the Family Justice Courts ("FJC") pursuant to the Probate and Administration Act 1934 ("PAA") and s 2 read with s 22 of the Family Justice Act 2014 ("FJA"). The Claimant could issue a citation to the Defendant pursuant to section 4(1) PAA and P 6, rr 38 and 39 of the Probate Rules. If she did not file a notice of intention to contest or not contest, then this would be deemed to be a renunciation of her prior right to letters of administration as the deceased's spouse.

(2) The Claimant could also commence an administration action in his role as a trustee under O 32 of the Rules of Court 2021 and P 1, r 2 of the Probate Rules to seek the court's guidance on the distribution, after he became the administrator of the estate. It would be open to the Claimant to argue that, in respect of the FJC probate issues, in considering the specific issue of inheritance rights, and in the exercise of the court's discretion in the same context, the court could take public policy considerations against marriages of convenience into account in deciding whether the marriage in this case was void. The court cited various English authorities where the courts considered the circumstances of a marriage in the exercise of its probate jurisdiction. If the court decided that the marriage was void, then the Intestate Succession Act would not apply – the Defendant would not be entitled to any share of the estate. Alternatively, the court could proceed to make a Benjamin order, taking into account the circumstances of this marriage of convenience.

(3) The concept of the Benjamin order is from *In re Benjamin* [1902] 1 Ch 723. This is "a direction to the trustees enabling them to distribute the trust property on an assumption of fact that there is no such other beneficiary or claimant.", e.g. if a beneficiary has probably died before the deceased or cannot be found. Such an order does not vary or destroy beneficial interests but merely enables trust property to be distributed according to practical probabilities. The beneficiary retains his entitlement to his share of the estate and can still pursue available remedies – but the trustee receives protection. (See the case of *Application of Harnett and Cutts* [2016] NSWSC 427, where the missing beneficiary could not be found for 18 years. The court granted a Benjamin order for the executors to be at liberty to distribute the missing beneficiary's share, given the old age of

the executors, the further time and expense which would be incurred to find him, and the modest size of the estate.)

(ii) *CPF monies*

(1) The Public Trustee ("PT") had not been able to locate the Defendant – it had advertised for information on her in the Straits Times pursuant to s 29 of the Trustees Act 1967. However, there was no evidence that the Claimant had liaised with the PT in this matter, and whether PT considered the funds were held as unclaimed funds pursuant to s 21 of the Public Trustee Act 1915. Hence, the court advised that the Claimant should liaise with the PT or CPF Board in respect of the CPF monies.

### 5.2 *In the estate of [the Testratrix], deceased, XGP* [2025] SGHCF 43

*Application should have been filed as a contentious probate proceeding*

Forum: General Division of the High Court (Family Division)

**Brief facts:** In this case, the Applicant, acting in person, applied, amongst other things, to revoke probate granted to the executrix of an estate (B), and to appoint himself as the executor instead. His case was that B had not made any effort to execute the probate according to the will, had not provided an account of receivables and expenditures and had not acted with due diligence, good faith and transparency.

**Key Points:**

The High Court dismissed the application as:

(a) The action was commenced as an originating application as a non-contentious probate proceeding, but should have been commenced as a contentious probate proceeding by way of originating claim. The former route would only be applicable with the consent of the person to whom the grant was made or in "exceptional circumstances" (in the UK, there is case law to state that such circumstances would include where a grant is made to a person who is not entitled to it because of fraud or ignorance of the true facts; where the grant has become ineffective and useless and would prevent the proper administration of the estate; and where the grant should not have been made in the first place, e.g. due to the presence of a caveat). There were no exceptional circumstances in this case. B should be allowed to present her case in respect of the applicant's allegations. The applicant said that he took the non-contentious route because he did not want to increase the dispute with B by setting out all his allegations in full, which he would have to, in a contentious probate proceeding. (This is despite being advised by the High Court AR that he should file his application as a contentious probate proceeding.) The court did not accept this as a good reason not to commence the action as a contentious probate proceeding – the Applicant needed only to provide sufficient reasons and evidence to justify his stance, and did not need to include what was not relevant.

(b) There was no evidence the executrix was served with the application.

(c) The Applicant's name was XGP, but he said he was a beneficiary of the will who was named C. He could not produce the deed poll to show that he had changed his name from C to XGP. No affidavit was filed on this matter. Hence there was no proof of the Applicant's identity and hence his standing to commence this probate action.

(d) The Applicant claimed that the other beneficiaries to the will had consented to the application, but there was no evidence of this. There was also no evidence that they had been issued a notice of action.

(e) The court stated that the Applicant could commence a fresh action as an originating claim, if he wished.

### 5.3 *XBP v XBO* [2025] SGHC(A) 15

*Testamentary capacity and knowledge and approval of the will*

Forum: Appellate Division of the High Court

**Brief facts:** In this case, the Testator was an experienced civil servant, capable in languages and aware of legal processes. He lived alone after his wife's death in 1988. He had six children (four sons, two daughters). The eldest son predeceased him in 1996.

2. The Testator had made a will in 1994 dividing the estate among four children, excluding the eldest (deceased by then) and youngest son. Then, in 2011, he made a handwritten will, where he left his main asset (a bungalow) to the Appellant (the younger daughter). It was agreed that he had testamentary capacity at this time. Then, on 24 November 2012 he revoked his prior wills, appointed the Respondent (one of his sons) the sole executor and beneficiary, with all the others receiving "0%". The will was attested by two witnesses, F and G, and was stored with the Respondent.

3. The testator was first diagnosed with "amnestic disorder" and "minimal cognitive impairment" and "possible Alzheimer's dementia" in September 2011. A January 2012 CT scan showed the Testator suffered from "memory loss" and microvascular/ischaemic changes. In November 2012, the Testator had made several emergency room visits when he felt unwell. The discharge summaries mentioned "Alzheimer's Disease? Vascular dementia", but there was no formal diagnosis. The formal Alzheimer's disease diagnosis only came in February 2015.

4. The Respondent filed for probate in October 2019 for the 2012 Will. The Appellant challenged its validity, alleging the Testator's lack of mental capacity (dementia) since early 2012. She sought reinstatement of the 2011 Will.

5. The High Court found that the Testator had testamentary capacity and knew and approved of the 2012 will. The Appellant appealed, and the Appellate Division dismissed the appeal.

**Key points:**

(a) A valid will requires the testator to understand: the nature and effect of making a will, the extent of property, and the claims of potential beneficiaries. There is a rebuttable presumption that a duly executed will indicates capacity, unless suspicious circumstances exist. The party asserting incapacity bears the evidential burden.

(b) There are 2 concepts. The first is the testator's testamentary capacity, as stated in (a) above. The second is that the testator must know and approve of the will's contents. It is possible for a testator to have testamentary capacity, but ended up not knowing and approving of the will's contents (e.g. if he had been tricked into signing it). Again, a properly executed will is *prima facie* proof that the testator knew and approved of the will's contents, unless suspicious circumstances shift the burden to the propounder to prove actual knowledge and approval.

(c) "Suspicious circumstances" may include: major unexplained changes to the will, the beneficiary's involvement in preparation, and the testator's frailty or illness, haste, or infirmity.

(d) In this case, there was insufficient medical evidence of the Testator's lack of testamentary capacity. The attesting independent witnesses F and G gave evidence that the Testator was lucid and alert. Their evidence was unchallenged. The Testator continued overseeing his own financial affairs until late 2012. Hence the court found that the Appellant failed to discharge evidential burden, and that the Respondent by his evidence and witnesses met the burden to prove capacity.

(e) There were suspicious circumstances – there was a significant, unexplained change in the disposition of the assets in the 2012 will, with the Respondent being the main beneficiary. The will was also executed quickly, and the execution was organised by the Respondent. However, such circumstances did not automatically invalidate the will. Where suspicion is raised, the propounder must prove knowledge and approval—here, the independent witnesses' observations provided sufficient evidence that Testator understood and approved of the will.

(f) Point to note: The takeaway is that when alleging testamentary capacity, the medical evidence needs to be solid; secondly it is important to distinguish between the allegation of testamentary capacity and the allegation that the testator did not know and approve of the will's contents.