LEGAL AID BUREAU'S CASE DIGEST (JANUARY – MARCH 2025)

This digest features various High Court cases on family law and procedure, published since the September – December 2024 Case Digest until end March 2025, which the Legal Aid Bureau (LAB) has 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; maintenance (as the main issues in the case)

1.1 *XHG v XHH* [2025] SGHCF 2

Division of matrimonial assets – dual-income marriage of 9 years with two children – wife maintenance – child maintenance

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

Brief facts: Parties were married for almost 9 years before they divorced. They had 2 children aged 9 years and 6 years respectively at the time of the divorce proceedings. Parties had agreed on joint custody with care and control to the wife and reasonable access to the husband.

The husband earned a monthly income of about $37,500, and the wife earned a monthly income of about $18,000 at the time of the divorce proceedings. The wife had been unemployed for a period before the divorce proceedings and had gotten the job paying her $18,000 a month fairly recently. In the past, she used to earn $30,000 a month, but the court held that it was not reasonable to expect her to earn the same amount in future, as she had a heart condition.

There were various disputes between the parties on whether certain assets were in the pool of matrimonial assets, and whether the husband had dissipated assets. These were largely factual disputes. The total matrimonial asset pool was estimated to be about $8.1 million.

Key points:

(a) The husband had had hair implants valued at $31,737. The wife said that this sum should be returned to the matrimonial asset pool because it had been expended without her consent when divorce proceedings were imminent. The husband said that he had booked the appointment for his hair implant treatment before the contemplation of divorce proceedings. The court did not believe him, given that he had made the enquiries about the hair implant treatment nearly 2 months before he commenced divorce proceedings and had spent this substantial sum without the wife's consent when divorce proceedings had already commenced. Hence, the husband was ordered to return this sum to the matrimonial asset pool.

(b) The husband had bought a piano after he had commenced divorce proceedings, at the price of $6,210. The court also ordered him to return this sum to the matrimonial asset pool, since the piano was bought for his personal use.

(c) The wife had changed the locks to the matrimonial home and refused the husband entry a few months after divorce proceedings had commenced, thereby forcing the husband to rent a property outside. He had initially rented a service apartment at $8,615 per month for about

five months and then rented a private apartment at the same development for $6,300 a month thereafter, for about five months ("5-month period"). The wife wanted the husband to return the difference in payment of the rent for the 5-month period. The court did not accede to this request, as the wife had not shown that the husband had the cheaper option available to him during the 5-month period.

(d) There were two properties included in the matrimonial asset pool, in which the husband's relatives stayed rent-free during the marriage. The wife wanted to include the notional rental for these properties in the matrimonial asset pool. The court said that this was not reasonable, as she had never asked for rent for these properties during the marriage.

(e) The wife had bought certain insurance policies 7 years before the marriage, for which she had paid premiums, and she continued to pay the premiums throughout the marriage. The court acceded to her request to only include 9/16 of the surrender value of the policies in the matrimonial pool, given that for 7 out of the 16 years that she had the policies and was paying premiums for them, she was not married.

(f) The wife's CPF monies acquired prior to the marriage were included in the matrimonial asset pool. This is because the monies in the parties' bank accounts were added into the matrimonial asset pool, no matter whether they were acquired before or after marriage. The wife did not object to this arrangement. Therefore, the court held that in fairness and for consistency, the same should follow for the parties' CPF accounts.

(g) The wife was ordered to return a sum of $18,292 to the matrimonial pool. This sum had been spent by the wife for renovation and furnishings for her mother's new flat after divorce proceedings had commenced, and the husband had not consented to this.

(h) The wife had received a certain sum as a rebate from the developer's property agent at the time that the matrimonial home was purchased. This was many years before the breakdown of the marriage. The husband wanted this sum to be included in the matrimonial pool. The court noted that this sum had been integrated with the family funds and used in the normal course of family life, so it ought not to be included in the matrimonial asset pool. The parties' direct contributions were 56:44 in the husband's favour, and the indirect contributions were 50:50. Therefore the overall ratio under the *ANJ vs ANK*[1] formula was 53:47 in the husband's favour.

(i) The husband had asked for an uplift of 3.5%, on the basis that he had to spend money on rent and other housing-related expenses since he had been expelled from the matrimonial home by the wife. The court did not accede to his request, because he had used monies from the matrimonial asset pool to pay for all this, which had not been returned to the matrimonial pool.

(j) The husband had also asked for a 1.5% uplift due to the wife's excessive expenditure in the year that divorce proceedings were commenced, of around $14,353.09 per month, for about

[1] [2015] 4 SLR 1043

9.5 months. However, the husband did not raise issues with specific expenses, and hence the court did not accede to his request.

(k) The court noted that the husband's failure to make full and frank disclosure did not show any *prima facie* evidence of concealment of assets, and the documents that he did disclose were sufficient for the court to proceed to make a decision on the division of matrimonial assets. However, his failure to make full and frank disclosure was taken into account when awarding costs for the proceedings. The court ordered standard costs against him for the ancillary matters proceedings, and costs thrown away, on an indemnity basis, for work done in response to his affidavit filed after the ancillary matters hearing, adducing certain bank statements which he should have (and could have) filed earlier.

(l) The wife was granted a lump sum maintenance of $144,000, which included backdated maintenance, as the wife had been unemployed for a period of time before and during the divorce proceedings. The husband had been giving the wife an allowance of $6,000 a month when she became unemployed, and the court took this amount to calculate the lump sum maintenance.

(m) The parties were ordered to bear the child maintenance in the ratio of 72.5:27.5, in line with their respective earning capacities (the wife was expected to earn bonuses in future).

1.2 *WZT v WZU* [2025] SGHCF 6

Child maintenance – appeal against interim child maintenance order

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

Brief facts: The husband appealed against the district judge's decision to order him to pay interim child maintenance of $2,244 a month to the wife and to backdate such payments for 12 months. The High Court dismissed the appeal but varied the instalment payments of the backdated maintenance such that it be paid over 18 months instead of 9 months.

Key points:

The court considered the following factors:

(a) The husband had stopped paying a regular sum of $3,000 per month to the wife since December 2022. He had not been contributing towards the children's expenses, which amounted to about $3,300 per month.

(b) The husband said that his salary payments had been delayed, but the district judge found that his employer had deposited $57,000 into his bank account in 2023.

(c) The husband said that he had lost his job, and that his last drawn salary was in January 2024. However, he was an IT professional and held a post graduate diploma. The district judge estimated that the husband's income would be $7,900 per month, if he found employment. He had claimed that his average monthly expenses were about $1,200 per month. The wife's assessed monthly income was $3,700 per month, and she claimed her estimated monthly expenses were around $500 per month.

(d) The district judge had applied the ratio of the parties' incomes (68:32) to the children's expenses and hence derived the figure of $2,244 for the monthly child maintenance. The husband was given a 3-month grace period to find employment before the maintenance order commenced.

(e) The maintenance was backdated for 12 months because of (a) and (b) above. The husband had also not been transparent about his finances and assets in 2023. For example, he had not submitted bank statements from all the Singapore bank accounts he had to the court, only some. He had also made unexplained cash withdrawals and bank transfers amounting to at least $30,000 from the bank accounts that he had disclosed to the court. There was no evidence that the wife had sufficient savings to sustain the children without the need for maintenance. The wife had declared her bank account monies.

(f) At the High Court hearing, the husband wanted to adduce two sets of further evidence, namely his bank account statements from 2016 to 2022, and his lawyer's invoices for work done. The High Court found that this new evidence did not satisfy two of the *Ladd v Marshall* criteria, namely whether the new evidence could have been obtained with reasonable diligence, and whether the new evidence was material. The husband did not provide any reasons in his supporting affidavit for his application as to why he was not able to obtain the new evidence earlier. The new evidence also did not affect the district judge's reasoning for the orders made (i.e. the matters in (a)-(e) above). Therefore, the husband's application to adduce further evidence was dismissed.

(g) The husband had informed the court in his appellant's case that he had found a job in December 2024, earning around $6,000 a month, not including potential bonuses. He did not provide any evidence as to his salary package. He also did not provide any evidence as to his alleged credit card bills, so that the court could not assess the extent of these debts, and whether they were justified in him not making any contributions to the maintenance of his children.

(h) Unemployment is not a determinative factor in assessing whether child maintenance should be ordered, although it is a factor to be considered. In this case, the husband had not produced any evidence of what efforts he had made to find employment during his long period of unemployment. For example, there was no evidence as to any SkillsFuture courses he attended, or interview applications.

(i) Reducing the monthly backdated maintenance instalments to $1,461, together with monthly maintenance, would provide a sufficient stream of maintenance for the children. This was also sustainable for him based on his claimed expenses of $1,200 per month.

1.3 *WTU v WTV* [2025] SGHCF 8

Division of matrimonial assets – dual income marriage of 18 years with 3 teenage children – wife maintenance – child maintenance

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

Brief facts: The parties in this case were married for 18 years and 7 months. The couple had 3 children, a daughter aged 19 years, and twin sons aged 17 years at the time of the appeal hearing in respect of which this judgment was issued. Interim judgment was granted on 6 April 2022. Ancillary matters orders were made on 18 December 2023. The wife appealed on the division of matrimonial assets, wife maintenance and child maintenance, and costs. Both parties worked, therefore it was a double income marriage, and the *ANJ v ANK*, supra, approach applied.

Key points:

Assets

(a) The wife had a joint bank account with her late father (who passed away on 18 October 2019), and when he passed away, she became the sole account holder. The monies in it ($140,000) were therefore *prima facie* a matrimonial asset. The wife said that the monies were an inheritance from her late father, since she was the sole beneficiary of her late father's will. However, the will did not contain a list of the late father's assets. The wife did not provide any evidence to show either the source of the monies in that account, or that she did not contribute to those monies, or any bank statements which might provide information on the timing, and the origin or destination, of fund transfers into or out of that account.

(b) The wife had joint bank accounts with each of the children. They collectively contained about $13,000. The wife argued that the monies in the joint bank accounts should be excluded from the matrimonial asset pool. The High Court disagreed, on the basis that the wife still retained control over the monies, which could be used by her for the children's benefit or for other purposes. There was no express agreement between the parties to the contrary. The fact that monies are set aside for the children's use does not make them any less of a matrimonial asset, unless the parties have agreed otherwise.

(c) The district judge had decided that the final ratio for the division of the pool of matrimonial assets was 52.575:47.45 in favour of the wife. Applying this to the pool of matrimonial assets, the district judge had worked out that the wife was to receive $1,742,434.04 of the matrimonial assets. The wife would retain the assets in her sole name, which amounted to $895,679.33, thus leaving a sum of $846,746.71. This sum was taken out of the sale proceeds of a rental property owned by the couple. This decision was upheld by the High Court. The points of appeal made by the wife on various issues pertaining to the ratio of direct financial contributions and indirect contributions, as well as the orders made to give effect to the final ratio were all dismissed.

Child maintenance

(d) The husband's monthly income was about $12,000, and the wife's monthly income was about $8,600. Thus, the ratio of their respective incomes was 58.5:41.5. The district judge accepted the wife's argument that the husband's earning capacity should not be taken at face value, given that the husband was the managing director of his family-owned business, and he had the sole discretion to determine his salary. He also likely derived some income from his side businesses. The children's reasonable expenses were determined by the district judge to be $1,625 per child, which determination was upheld by the High Court, as there was no evidence given by the wife on why these expenses should be higher. The district judge had also accounted for the husband's greater income earning capacity in his apportionment of the children's maintenance. In addition to paying for 58.5% of the children's living expenses, the husband would have to bear 100% of the children's educational expenses, including but not limited to tuition, school fees, school books and uniforms. This would include $692 per month for the eldest child's school fees and $3,360 per month for the two boys' enrichment tuition classes. This far exceeded the 58.5% the husband would have to pay for the children's living expenses. Taking into account the wife's employment, her own assets (including a fully paid HDB property inherited from her late father), and her share from the division of the pool of matrimonial assets, she would have the means to help maintain the children. The wife's appeal for the husband to pay more in child maintenance was dismissed.

(e) The wife was ordered to pay for the children's health and accident insurance policies which were in her name, which amounted to $59.13 a month for all of them. This was a much lower sum than the educational expenses which the husband was ordered to bear. The wife's appeal for husband to bear these expenses was dismissed.

(f) The surrender values of the insurance policies for the children which were in the husband's name had been included as part of the husband's share of the matrimonial assets. Therefore, the husband could decide whether to continue paying for the policies, or to surrender them. The wife's appeal that the husband should pay the premiums for these policies was dismissed.

(g) The wife wanted the child maintenance amount to be backdated, to when the divorce proceedings were commenced. However, the High Court refused to do so, on the basis that the children had been living in the husband's parents' house, and the wife had not contributed to the parents' household expenses. The husband had also paid for the eldest child's credit card expenses and transferred money to her. He had paid for various expenses of the children, including the educational expenses.

Wife maintenance

(h) The High Court also upheld the district judge's order for no wife maintenance, considering the wife's employment, the HDB flat she inherited from the late father, and her share of the matrimonial assets. She had the resources required for financial preservation.

(i) The wife wanted the husband to continue to pay the hire purchase instalments for the car that he gave her. It was an inter-spousal gift, and was not included by the district judge as part of the matrimonial asset pool. The High Court was of the view that there was no basis to convert what was a gift into a continuing financial obligation by compelling the husband to pay for the remaining hire purchase instalments for the car.

Costs

(j) The district judge had ordered the wife to pay $2,500 to the husband for his legal costs. This was based on his assessment that: (i) his orders for the ancillary matters in dispute were closer to the husband's position, (ii) his observation that the wife was unsuccessful on several issues she had advanced and (iii) substantial work was done to compile voluminous documents pursuant to the wife's various requests for disclosure that yielded no meaningful result. The High Court upheld the costs order, noting that in exercising its discretion in awarding costs, the court will have regard to all the circumstances of the case, and the conduct of the parties, including whether such conduct is aligned with the aims of therapeutic justice.

(k) However, parties must explain why the guiding rule that costs follow the event should not apply to the facts of their particular case and draw the court's attention to the factors that will justify the departure from that rule. The wife did not do this, in this case. It does not suffice to simply state that the court should depart from the guiding principle in the context of matrimonial proceedings, without stating the relevant considerations for doing so.

1.4 *WWQ v WWR* [2025] SGHCF 3

Child maintenance – variation of child maintenance appeal allowed

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

Brief facts: Parties were divorced, with interim judgement being granted on 26 March 2015. The parties agreed on the ancillary matters and entered into a consent order. The husband applied to vary the consent order in respect of the child's maintenance on 6 January 2023. This was granted on 17 January 2024, with the child maintenance payment being varied by the district judge from $1,400 to $850 per month. The wife appealed.

Key points:

(a) The High Court allowed the appeal.

(b) The husband's last known income was in 2022, when he was a relief teacher in an international school. His salary varied from month to month, averaging $4,529 per month (before CPF deductions). The husband had since assumed a full-time role at the same international school. There was no reduction in the husband's income since 2015. The husband had claimed that his monthly expenditure had increased, but there was no evidence of this.

For example, he said in his affidavit that his monthly rental expenses were going to spike from $1,000 – $2,500, but he did not show proof or explain why. His assertion of an increase in his expenses, without more, did not show a material change in circumstances.

(c) The original amount of $1,400 a month was the result of an order made by consent between the husband and wife. The court will not be likely to vary the terms of the settlement agreement simply because the court's view was such revision would lead to a more equitable result. The court has to respect the fact that the parties would have had their own private reasons for agreeing to the settlement. The husband said that he had signed a consent order in 2015 when he was suffering from a depressive episode. However, there was no proof that the wife had taken an unfair advantage over him in the course of negotiating the consent order.

(d) The husband had only been paying $700 for the child's maintenance since 2 January 2020. Therefore the court ordered the maintenance to be backdated to this date. This would amount to a lump sum of $42,000 (i.e. 60 months multiplied by $700). However, the lump sum payment might cripple the husband financially, so the husband was ordered to pay this sum in instalments of $1,000 per month for the next 42 months.

1.5 *WRQ v WRP* [2024] SGHC(A) 38

Division of matrimonial assets – variation of consent order on matrimonial property when original order was silent

Forum: Appellate Division of the High Court

Brief facts: Interim Judgment and a consent order on ancillary matters ("**Consent Order**") were granted on 22 April 2013. Amongst others, the Consent Order provided that the matrimonial property ("**Property**") was to be sold after the youngest child turned 21 (in 18 years' time), with the balance proceeds to be divided equally between the parties, but without stating which party should be responsible for the mortgage payments. In 2023, the husband sought to vary the Consent Order to provide, *inter alia*, that the Property be sold immediately and the wife reimburse him for the mortgage repayments he had made. The High Court (on appeal by the wife) reversed the district judge's decision for the immediate sale of Property and ordered the husband to solely bear the mortgage repayments ("**Mortgage issue**"). Both parties appealed.

Key points:

The husband's appeal on the Mortgage issue was allowed:

(a) Varying an explicit term in a consent order is different from varying a consent order to deal with an issue on which the consent order is silent. In the latter situation (as in the present case) the explicit terms in the original order are not necessarily altered and hence the finality of those orders is not undermined. The variation may instead supplement the original order to render it workable.

(b) Where a consent order has been made but is silent on a particular issue, what the parties knew or intended at the time the consent order was made can be taken into account by the

court in exercising its discretion under s 112(4) of the Women's Charter, to determine the appropriate variation order to make. This exercise is not a strict application of the principles of contractual interpretation, however.

(c) The Consent Order gave rise to the risk that the bank would repossess the Property for failure to make the mortgage repayments. Therefore, to ensure that the original Consent Order remained workable, the court needed to make an order addressing the Mortgage issue.

(d) The responsibility for the mortgage repayments ought to have been provided for in the parties' agreement, given the exceptionally long period between the Consent Order date and the date the Property was supposed to be sold. Parties and lawyers working on agreements to be incorporated in consent orders should apply their minds and think carefully about all the key matters and the workability of the agreements that address their financial matters after the divorce.

1.6 *WXD v WXC* [2025] SGHCF 14

Division of matrimonial assets – 11-year dual income marriage, 2 children

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

Brief facts: Parties were married for about 11 years (the marriage date was 12 December 2009, and Interim Judgement was granted on 4 March 2021). This was the second marriage for both parties, and they had two adult children each from their previous marriages. The couple also had two sons from the present marriage, aged 14 and 13 years old respectively as of the date of the hearing of the appeal in respect of which this judgment was issued. The 14-year-old was diagnosed with autism, and attended a special school. The other child had learning difficulties.

The wife was given care and control of the children, with liberal access to the husband. This was despite the fact that she had had two strokes in 2017 and August 2020 respectively, which left her unable to walk. Before she was unable to work because of the deterioration in health from her first stroke, the wife ran a drinks stall in a primary school canteen for some years. The husband operated his own companies, consisting of 2 businesses, Business M and Business T. The husband was ordered to pay a sum of $2,124 as monthly maintenance for both children, and to continue paying the children's pocket money, bus fare for one of the children, and any other expenses that were being paid directly for the benefit of the children. The husband was further ordered to bear some 78.5% of any tuition or enrichment classes for the children, subject to a cap of $500 per child, and the production of relevant invoices or receipts from the wife or her proxy.

Both parties appealed to the High Court regarding the division of the matrimonial assets.

Key points:

Insurance payouts

(a) The wife had received insurance payouts on account of her strokes. The husband wanted these to be part of the matrimonial assets. The High Court did not allow this. This was a marriage where the husband's role was more of a breadwinner, and he left it largely to the wife to run the household and look after the family, although she had also worked before her stroke. It was unlikely that the parties had the intention that the insurance payouts would be used for the wife's missing income so as to sustain the family if she became critically ill. Therefore, the High Court concluded that the insurance payouts were to provide for the wife's medical expenses and issues related to her strokes, and hence not part of the matrimonial asset pool. If the wife had not suffered a critical illness and the insurance plans were simply held as investments to be in cash for a profit in the future, they may well have been considered matrimonial assets to be divided. However, this was not the situation in this case.

Direct financial contributions – broad brush approach

(b) The district judge had found that the parties' direct financial contributions to the matrimonial pool of assets, excluding the matrimonial home, were in the ratio of 64.5:35.5 in favour of the wife. The husband had contended that this should have been 90:10 in his favour. There were many factual disputes between the parties regarding their financial status and sources of income, with the husband claiming that he was the main income earner, and the wife claiming that she had loaned monies to the husband so that he could purchase lorries for his companies and get his businesses off the ground, and that she had lent large sums to him to sustain his businesses, and also rescued him from bankruptcy proceedings commenced against him in 2013.

(c) In determining the parties' direct financial contributions the district judge had totalled up the parties' solely owned assets and credited those values as their direct financial contributions. However, the High Court was of the view that this may not have been correct, because many of the assets held by the wife in her sole name were not necessarily paid for by her, because she did not have the financial capability to solely acquire these assets.

(d) The parties appeared to have pooled their funds together, and it was more likely than not that the parties had contributed to the acquisition of the assets held in each other's respective sole names. The parties had no joint bank account, and most of the bank accounts with positive balances were in the wife's sole name. This was supporting evidence for the husband's position that he had handed his income to the wife for her to save the income for the family. The wife had earned less than $20,000 per year from her job operating a primary school canteen store. Moreover, she had stopped working after her first stroke.

(e) The wife did not appear to have any other income sources – her contention that she had received substantial rental from renting out a room in the matrimonial home was not accepted by the district judge. Although she had come into the marriage with an HDB flat purchased with her former husband, there was still an outstanding mortgage to be paid after

the marriage. The High Court went through the facts carefully and decided that the wife had assisted the husband financially and also in terms of helping out in his businesses, for example by organising certain company events. However, the High Court accepted that the husband was indeed the main income earner in the family. Applying a broad-brush approach, the High Court decided that the appropriate ratio for the parties' direct contributions towards the matrimonial assets was 50:50.

Indirect contributions

(f) The district judge had found the parties' indirect contributions were in the ratio of 45:55 in favour of the husband. This was upheld on appeal. The husband had argued, inter alia, that he had paid for the domestic helpers, gave them instructions, monitored the children's academic performance, and sent them to school. After the wife's stroke, he had been the main caregiver for the children. However, the court found that the husband was busy with work, and the wife had more time to care for the children and take care of the household. Her efforts must have been significant, given the children's special needs. She indeed had the assistance of domestic helpers, which was a factor to take into account in calibrating the indirect contributions, but did not erase her indirect contributions. There was a custody evaluation report which supported the wife having care and control of the children, which affirmed the wife's case that she had been an effective primary caregiver for the children. Even after her strokes, she had overseen and instructed her adult children from her previous marriage to take care of the children, thus playing a superintending role in ensuring the smooth running of the household. The husband was also an involved parent in terms of monitoring the children's academic performance and sending them to school. However, these contributions were not done to the exclusion of the wife. The High Court upheld the district judge's finding.

Weighting between direct and indirect contributions

(g) The district judge had given equal weight to the parties' direct and indirect contributions to the marriage. The husband argued that since there were domestic helpers involved in making indirect contributions, more should have been attributed to the parties' direct contributions compared to the indirect contributions. The High Court upheld the equal weight decision. This was a mid-length marriage with two children, and the size of the matrimonial pool of assets was not extraordinarily large. There was no reason to shift the average ratio in the husband's favour.

Rounding off issue

(h) The district judge had rounded the initial average ratio for the division of the matrimonial assets of 54.75:45.25 to 55:45, rounding up in the wife's favour. The husband wanted the rounding off to be in his favour, rather than in the wife's favour. The appeal court refused. This issue was moot in the light of the recalculation of the division of the matrimonial pool of assets. In any event, the basic principle of arithmetic is to round a decimal point figure to the nearest whole number – i.e. 0.75 to 1, and 0.25 to 0.

Adverse inference issue

(i) The wife had wanted an adverse inference to be drawn against the husband in respect of business L, which she alleged was a sham, which the husband was using to hide or siphon off assets which should have been part of the matrimonial assets pool. However, she had no substratum of evidence which could establish a *prima facie* case that the husband had siphoned assets from his existing businesses and placed these assets in business L or generated income through business L between business L's inception and the interim judgement date. For example, unexplained withdrawals from his bank accounts to business L or other unknown parties.

1.7 *WXW v WXX* [2025] SGHC(A) 2

Division of matrimonial assets – determining when a marriage is a dual or single income

Forum: Appellate Division of the High Court

Brief facts: The appellant wife and the respondent husband were married in January 1988. Interim Judgment was granted on 22 September 2022. The parties' marriage had lasted 34 years, with 3 adult children. The Judge of the Family Division of the High Court ("**Judge**") found that: (a) this was a single income marriage so the structured approach in *ANJ v ANK*, supra, did not apply; and (b) guided by the principles in *TNL v TNK* [2017] 1 SLR 609, the matrimonial assets were to be divided 60:40 in the Wife's favour. The Wife appealed the Judge's decision on several points. This write-up will focus on the Wife's main contention of the marriage being incorrectly classified as a single income marriage. The AD allowed her appeal.

Key points:

(a) To determine whether the marriage is a dual income or single income one, the key enquiry focuses on the roles undertaken and discharged by the spouses during the marriage.

(b) No matter which approach (*ANJ* v *ANK, supra* or *TNL v TNK, supra*) is applied, a just outcome must give sufficient recognition to the contributions of both spouses. However, equal recognition of different roles and efforts does not necessarily equate with exactly equal division of assets. While different efforts are equally valued, the spouses may not contribute equally relative to each other.

(c) Parties must apply the underlying rationale of the *ANJ* and *TNL* approaches instead of applying them as technical rules. Applying a broad-brush approach in assessing indirect and homemaking contributions would discourage needless acrimony during divorce proceedings.

(d) Although the husband claimed to be the primary homemaker, the Court found that both the wife and the husband were involved in caring for the children. To determine a fair outcome, the court will consider all the relevant evidence, including the presence of domestic helpers, to reach an assessment of the role of each spouse in raising their family.

(e) The Court found the husband's entrepreneurial efforts after his retrenchment incompatible with his intention of being a full-time homemaker. He would have worked full-time if he had been able to find a suitable job or if he had succeeded in setting up a viable business.

(f) Ultimately, considering the facts and circumstances of this case as a whole, this was not a single-income marriage.

1.8 *XIK v XIL* [2025] SGHCF 16

Division of matrimonial assets – short single income marriage of 11 years with two children

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

Brief facts: Parties were married for about 10.5 years (the Court rounded it up to 11 years). They had two children, aged 11 years and 8 years respectively at the time of the ancillary matters hearing. The wife (a Singapore citizen) commenced divorce proceedings on 17 February 2023, and Interim Judgement was granted on 24 August 2023. The first ancillary matters hearing was on 25 July 2024. Parties had agreed on joint custody, with care and control to the wife. The husband (an Australian citizen) was the sole breadwinner. He had moved to Papua New Guinea for work and was frequently absent from home from 2020 to 2023 (though this was partly also because of the Covid-19 restrictions). This was a single income marriage. The wife had worked before marriage, but stopped shortly after the birth of the first child in July 2013. The issues before the court were the division of the matrimonial assets, and wife and child maintenance.

Key Points:

Matrimonial assets

(a) There was some dispute over what assets constituted the matrimonial asset pool. Essentially, it was about: (i) how to value the husband's shareholdings in two companies (one an Australian public unlisted company (Company G), and one an Australian public listed company (Company H)); (ii) whether 7 companies in Papua New Guinea in which the husband was formally, or currently, a director and/or shareholder had any value; and (iii) whether a family trust of which the husband was a beneficiary held any more assets aside from the shares in Company G and Company H.

(b) On the issue in (a)(i), an expert valuer was appointed to value the shares, and the valuation report listed the value of the shares as between about $55,000 and $74,000. The court took the average of these two numbers as the value of the shares. On the issue in (a)(ii), the share price as at 14 May, which was the share price available which was the closest to the ancillary matters date, was taken to calculate the share value. On the issue in (a)(iii), there was no evidence that the family trust held any more assets than the shares of company G and Company H. A final point to note – the shares of Company H were not liquid, as the husband had entered into an agreement not to sell the shares for a certain period (until November 2025), failing which he would be ineligible for various dividends, distributions or exercise any voting rights. Moreover the share price was extremely volatile. Hence, the court ordered that the wife's share of this asset be distributed in kind – i.e. she would get a portion of these shares rather than their cash value. This would ensure that both parties

would bear the risk of holding this asset – it would be unfair to make the husband bear all the risk of holding this asset.

Expenditure when divorce imminent and also post Interim Judgment

(c) Each party made expenditures after the marriage broke down. The wife had made about 51 expenditures over 6 months between March 2023 and August 2023, after the commencement of divorce proceedings. For his part, the husband had spent monies to purchase a crypto currency, Ethereum, after the interim judgement was granted.

(d) The court distinguished between monies spent during the period where divorce is imminent or after the interim judgement, and monies spent before this period. For the latter, if there was any "wasteful whittling away of matrimonial assets", that would go towards the assessment of parties' contributions to the marriage. However, for the former, the court would scrutinise expenses which were not part of the family's regular expenses, or which were disproportionately high. If these expenses were unjustifiable, then they would be returned to the matrimonial asset pool.

(e) When assessing whether a particular expense was substantial, the court would look at the quantum of the expense, whether such an expense had been incurred in the past, and the extent of the expense. The court could treat a series of expenses as one large expense, in appropriate cases. The court would look at the spending history of the family, and enquire whether other spouse had consented to the expense. There could be implied consent, in that the family had been spending on that item all along, so there would be an assumption that the spouse would have consented to that particular expense. However, the court would also consider whether this implied consent had been explicitly revoked. Also, if there was a dramatic escalation in the quantum of such an expense, implied consent would not necessarily be assumed, even if the family had been incurring the expense all along. The principle is to balance the pre-existing financial norms of the family against the need to protect the parties' interests as the marriage concludes.

(f) In this case:

(i) The wife had spent $21,792.44 on furniture. She and the children were moving to a new rental premises, and had to furnish it. The court held that this was in line with the family's standard of housing, and declined to return the sum to the matrimonial pool.

(ii) The wife had spent about $10,206.07 on the children's leisure and entertainment. This included tickets to a Coldplay concert, staycations, a holiday in Bali, sports equipment and holiday shopping. The court declined to return this expenditure to the matrimonial asset pool, on the basis that the family had led a lifestyle of international travel, outings, and spending money on equipment for the children's activities during the marriage, in order to give them variety in their life experiences. The husband could be interpreted as impliedly consenting to all these expenditures. There was also some evidence in the form of enthusiastic emails from the husband in response to the wife's sharing of photographs and

updates from the Bali holiday, which showed his implicit approval of the trip and its associated costs.

(iii) The wife had spent about $30,000 on luxury items from brands such as Hermes, Cartier, Watch Exchange and other boutiques and online retailers for designer wear and accessories ("the luxury items"). She had also spent monies in clubs, and on flowers and alcohol amounting to $7,277.89 ("the other expenses"). The total amount spent on the luxury items and other expenses was $37,786.65. The court found that the wife had no evidence to show previous similar expenditure during the marriage. Further, if she had made such expenditure in respect of luxury items, she would have those items in her possession, which would form part of the matrimonial asset pool. However, she did not declare any such luxury items in her possession. Even if the husband had given her such luxury items as gifts during the marriage, this was different from the wife purchasing such items for herself when the marriage had broken down. The court ordered that the wife return $37,414.11 to the matrimonial asset pool. This was $37,786.65 less $372.54 that she had spent on Food Panda. The latter was considered a "daily, run-of-the-mill" expense. This personal expenditure by the wife appeared *"…not to be incurred in the ordinary course of the family's lifestyle, but rather what could be a coping mechanism for the emotional distress and devastating consequences caused by the marital breakdown, or an indulgence unleashed as a final flourish in the last stages of a failed marriage."* Such expenditure unjustifiably depleted the matrimonial asset pool.

(iv) The husband had spent $12,100 to buy Ethereum for his brother. He claimed that he no longer possessed this crypto currency. The court ordered this sum to be returned to the matrimonial assets pool, as the wife had not consented to this expenditure.

Adverse inference – substratum of evidence required

(g) No adverse inference was drawn against the husband as the wife had requested, because she had only speculated that he had more assets than he had declared, but had no substratum of evidence to back this assertion. The High Court said that financial capacity speaks to potential earning power or wealth, but does not necessarily indicate hidden assets or income. The husband in this case had been very transparent, even if he had been tardy in some instances in disclosing his assets. But he had eventually made full disclosure of everything that he needed to disclose.

Ratio of division

(h) The total value of the matrimonial asset pool was held to be $3,786,958.19, which was not considered to be an exceptionally large asset pool. The husband was considered to have made 100% of the financial contributions, both to the assets and to the household expenses. The wife had not brought any significant financial assets into the family, and had been a homemaker throughout the marriage, assisted by a domestic helper. Her indirect contributions in terms of caring for the children were substantial, though the husband had

also been an involved father. In addition, she was also the sole director and shareholder of a company (Company F) set up by the parties – but it was the husband who had injected funds into the company. He channelled his salary into this company, and both parties drew salaries from the company to enjoy tax reliefs under this arrangement. The wife was also paid dividends by the company. The wife managed the company by carrying out the husband's instructions, searched for rental spaces and liaised with its corporate service provider. The court took into account the wife's contributions to Company F, but was of the view that they did not require that much time or effort on the part of the wife. She also had not sacrificed a very high-flying career in order to be a homemaker. Before the marriage she had worked as an account manager in a multimedia company and as a curator in an art gallery, with her last drawn salary being $3,000 a month.

(i) The court held that the ratio of the division of the matrimonial assets should be 27.5: 72.5, in the husband's favour. This took into account that the range of the homemaker's share of the matrimonial asset pool for a marriage of 10 – 15 years would be about 25% – 35%, as well as the factors set out in the previous paragraph.

(j) Interestingly, the court did not seem to have taken into account the wife's disruptive behaviour which the husband alleged had damaged him personally and professionally. For example she had cancelled his PR application, reinstated it, and cancelled it again, frequently called the police on husband, and sent the husband's mother over 100 offensive emails, and the Chairman of the Board of Company G, the husband's former employer, more than 2000 emails, containing personal attacks on the chairman and his family. The husband claimed that these actions forced him to leave company G and seek work in Papua New Guinea.

Children's maintenance

(k) The court noted that the wife was 41 years old, had no health conditions, and had only been away from work for about 10 years. It decided that she could earn $3,000 per month based on her previous salary at the art gallery she had worked at. The husband earned $44,300 a month, on top of which he received an additional monthly allowance from his employer of $9,201. Therefore, the ratio of their incomes was 93.7 (husband): 6.3 (wife).

(l) The court went through the children's expenses in detail, moderating down certain expenses. The husband was ordered to pay 100% of the children's school and education related expenses directly to the service providers. For the household expenses of $11,316 (two thirds of which were the children's share), and the children's personal expenses of $1,911.50, the parties were to contribute according to their income ratio. Of interest is the court's observation on items of expenditure the wife sought on extra-curricular activities, which the husband did not consent to. These were discretionary expenses that went beyond what the children reasonably needed and should be borne by the wife if she chose to enrol their children in those activities. The husband was willing to cover some discretionary expenses, for outings, play dates, toys, gifts, stem cord banking and birthday celebrations. These amounts were added to the maintenance order for the children.

Wife maintenance

(m) On wife maintenance, the court noted that a former wife must, where possible, exert reasonable efforts to secure gainful employment and contribute to preserve her pre-breakdown lifestyle. At the same time, the wife's expenses must be reasonable. Even if there were receipts to prove all the items of expenditure, that did not necessarily mean that the expense or its quantum was reasonable. The wife claimed her personal expenses to be $8,160 a month. The court cut this down to $2,200 a month.

(n) The wife wanted lump-sum maintenance, and the court felt that this was a reasonable request to ensure a clean break between the parties, and it was something the husband could afford.

(o) The wife's anticipated salary of $3,000 fell short of her share of the household expenses plus her personal expenses, by about $2,600 (after August 2025). The court therefore used this $2,600 figure as the multiplicand. The multiplier was fixed at 4 years. The court took into account the relatively younger ages of the parties, their income disparity, the fact that the wife was the primary care provider, her share of the matrimonial assets, the marriage length, the reasonable time frame it would take to get a job and adjust to her new circumstances, and the husband's responsibilities to the children. The final amount was $124,800.

1.9 *XJI v XJJ* [2025] SGHCF 17

Division of matrimonial assets – dual income marriage of 12 years with 3 children

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

Brief facts: The parties' marriage lasted about 12 years. The wife commenced divorce proceedings on 11 May 2023 and interim judgement was granted on 14 November 2023. There were three children aged 13 years, 11 years and 10 years respectively at the time of the ancillary matters hearing. The husband worked as a part-time real estate agent earning a monthly income of $3,000, and the wife was a clerk earning a gross monthly salary of $7,700. The wife had stopped full-time work when the first child was born in 2012, and only resumed full-time employment in December 2020.

Key points:

Division of matrimonial assets

(a) The matrimonial asset pool was $5,502,621.26 (which included an HDB flat (referred to in (i) below, and a condominium). Some of the key issues are:

(i) Pre-marital asset used as matrimonial home

a. There was an HDB flat purchased by the husband before the marriage, in which parties had stayed for about 8 years and 3 months during the marriage, before moving out. The court held that this was a matrimonial asset, being a matrimonial home. There was no reason to classify it in another group from the main matrimonial asset pool and to award a separate weightage to the direct and indirect contributions based on the fact that it had been a matrimonial home for only part of the marriage, since it had been used as a matrimonial home for a considerable period, i.e. for more than half of the marriage.

(ii) Excluding pre-marital CPF funds

a. The husband's pre-marital CPF funds were excluded from the matrimonial asset pool – the date taken to assess the value of these pre-marital funds was 1 January 2011, the closest available date to the parties' marriage date which was 26 March 2011. This made quite a difference, because the total amount of money in the husband's CPF accounts as at 31 December 2023 was $624,272, and the amount in the account as at 1 January 2011 was $252,877.94.

(iii) No evidence that monies were pre-marital funds

a. The husband had various bank accounts which he claimed contained premarital funds, but had no evidence to prove this, so all the money in these accounts was included in the pool of matrimonial assets.

(iv) Transformation of pre-marital funds into matrimonial assets through intention – possible in theory, failed in practice

a. The parties had 2 joint bank accounts, and agreed that the balances in these two accounts should be included in the matrimonial asset pool. However, the wife alleged that the husband had transferred a total of $937,000 out of one of the accounts, Account 7025, between January 2020 and February 2021. The husband claimed that the money in this account was used to pay monthly mortgage payments, and renovation and fittings of the condominium which was the parties' second matrimonial home. He also asserted that the monies in both joint accounts were his premarital funds earned from flipping properties.

b. Account 7025 was also opened in order to take advantage of higher interest rates by transferring monies into it frequently. Neither party had direct

evidence to prove the source of funds in Account 7025. However, the court noted that the husband had run a business that made a profit of roughly $1.5 million to $1.8 million, and used that money to invest in properties and had come to the marriage with a relatively high net worth. On the other hand, the wife was 28 years old at the time of the marriage and did not have much money. Therefore, the court accepted that a significant portion of the $937,000 was likely to have originated from the husband's premarital funds. Both parties' monies likely commingled in Account 7025 over the years and it was not possible to determine the exact amount of the husband's premarital funds. The court estimated the husband's premarital monies to be 80% of the disputed amount, based on their earning capacity at the time.

c. The husband had used the premarital funds to generate high interest rates to cover the family's expenses. However, this fact did not transform the monies into matrimonial assets. In this case, the monies in Account 7025 were not directly used towards the family's expenses, and there was no evidence that the husband referred to the money as the family's wealth. He had therefore not demonstrated a clear and unequivocal intention to treat the monies as matrimonial assets. Therefore, the court excluded the amount deemed to be his premarital funds, i.e. $749,600 (80% of $937,000). This analysis assumes that had there been sufficient evidence that the husband had intended to treat his premarital monies as family assets, they would have been part of the matrimonial asset pool. This is an advance on *CLC v CLB* [2023] 1 SLR 1260 which held that an inheritance or gift will lose its character as a non-matrimonial asset when the donee spouse manifests a "clear and unambiguous intention" to incorporate the monies into the family estate. However, unlike *CLC v CLB*, this present case involved premarital monies, rather than gift and inheritance.

(v) Division ratio, weightage

a. The court decided to use the global assessment method to calculate the division of matrimonial assets, rather than the classification method which the husband had requested. This was because the parties had three children during the marriage of approximately 12 years, which was not particularly short, and they did not have a vast conglomerate of assets, so adopting the classification method might be too arbitrary. It appeared that the husband in requesting the classification method wanted to exclude the wife from both matrimonial properties, namely the HDB flat and the condominium, as she had not contributed to the former financially, and relatively little to the latter compared to the husband.

b. The *ANJ v ANK, supra,* approach applied, as it was a dual income marriage. The court found on the facts that the ratio of direct contributions was roughly 91:9 in the husband's favour, and the ratio of indirect contributions was 50:50. Equal weight was assigned to the direct and indirect contributions.

There was no reason to depart from this. The overall ratio was about 70:30 in the husband's favour.

(vi) *Wife and child maintenance*

a. The wife was granted $100 monthly maintenance for herself on the basis that she suffered from chronic rheumatoid arthritis as a result of the childbirths, and had to incur a lifelong medical expenses.

b. The children's reasonable expenses added up to $4,039 a month. The husband and wife were ordered to bear the children's maintenance in the ratio of 75:25 respectively, in the light of their respective earning capacities and financial resources. Although the wife earned more than the husband currently, the husband had amassed a huge pool of assets from trading properties and received a monthly rental income of roughly $3,000 from the HDB flat. Each party would bear the expenses for food and groceries as and when the children resided with them.

(vii) *Care and control*

a. Joint custody was agreed, but each party wanted sole care and control of the children.

b. The court ordered that the husband would have care and control of the children from 9 pm on Sundays to the children's school dismissal time on Fridays. The wife would have access to the children from the children's dismissal time on Fridays to 9 pm on Sundays. If the children had no school on Friday, they would be with the wife from 10 am. There were also orders on the school holidays, with the wife having the children during the school breaks in March and September, and the first three weeks of the June school vacation. Each party would have the children for half of the year end school holidays. There were various other orders on overseas access and public holiday access.

c. The court was of the view that both parties were equally competent in caring for the children, playing different and complementary roles. The husband had the role of the disciplinarian. The court had interviewed the children, and observed that they were all comfortable with both parents. However, the court was not certain that the parties were able to communicate and compromise in making day-to-day decisions for the children, so did not order shared care and control which usually requires parents to demonstrate the capacity to work well together. It would take a "unique set of conditions" before the court decides to make such an order. As the husband had flexible working hours, it was best for the children to stay with him during the weekdays. The husband would have more time with the children during the

school term, but the wife would have more time with the children during the weekends, school holidays and public holidays.

1.10 *XIW v XIX* [2025] SGHCF 18

Division of matrimonial assets – dual income marriage of 37 years, 2 adult children

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

Brief facts: The parties' marriage lasted close to 37 years. The wife commenced divorce proceedings on 1 September 2022. The interim judgement date was 31 May 2023. There were two sons from the marriage, aged 33 and 30 years old. The parties had agreed that there would be no spousal maintenance. Therefore, the only issue was the division of matrimonial assets. This was a dual income marriage, therefore the *ANJ v ANK*, *supra,* approach applied.

Key points:

Exchange rate issue

(a) There were certain matrimonial assets which involved foreign currencies. The parties disagreed on the exchange rate to be used. The wife rounded off the values to 4 decimal places, while the husband used values up to 6 decimal places. The court adopted the husband's values, as being more precise.

Not So Good v Good Therapeutic Justice behaviour

(b) The difference between the parties' positions on the pool of matrimonial assets was only $197.50 and the total value of the matrimonial pool of assets exceeded $8 million ($8,804,867.30). The court cautioned that parties should avoid being caught up in disputes over values less than 0.0025% of the value of the total matrimonial asset pool. In LAB's view, disputing such small amounts does not constitute good therapeutic justice behaviour.

(c) A point of good therapeutic justice practice: the wife had an SGX account. She declared that she had sold various shares in this account between the date of the interim judgement and the date of the ancillary matters hearing. The shares she sold had a value lower than what their price would have been had she retained them until the date of the ancillary matters hearing. The wife accepted that the appropriate value of her SGX account ought to be the higher value of the two, i.e. the value as of the date of the ancillary matters hearing, had she not sold the shares. The court agreed, and thanked the wife for her candour in raising this point of her own volition.

Calculating direct contributions

(d) The wife, to derive the ratio of the parties' direct financial contributions in respect of the matrimonial property, used the actual amount the parties had paid to acquire it. On the other hand, the husband used the relative ratio of the actual amounts the parties had paid towards acquiring the matrimonial property and converted it to the current market value of the matrimonial property. The court was of the view that the husband's approach was more reflective of the reality of the present value of the matrimonial property, and adopted the

husband's approach. The wife's approach gave a ratio of 52.88:47.12 in her favour. The husband's approach gave a ratio of 49.09:50.91 in his favour. This approach is unusual, as the wife's approach is actually what is used for most cases.

(e) The court decided on the facts that the parties' direct contributions were 48.99:51.01 in the husband's favour. The husband had tried to run an argument that he had devoted all his income to acquiring the matrimonial assets, and therefore the wife's direct contribution should be limited to the difference between the total value of the matrimonial pool and the sum of the husband's total net income during the years of marriage and his CPF contributions to the matrimonial property. The court rejected this argument as it did not take into account the wife's total accumulated income throughout the parties' marriage. This would have determined the respective ratio of the parties' total accumulated income and shown their direct contributions.

Indirect contributions

(f) Both parties maintained their jobs and relied on domestic helpers to assist with the housekeeping and taking care of the children. The wife had the assistance of a domestic helper for about 12 years, but was the primary caregiver, and had made a career sacrifice in order to care for the children. She had left her full-time job in 1996 to do freelance work, and constantly changed jobs as she had to care for the children and manage the household. The husband had to travel intensively for the first 10 years of his career, which meant the wife had more responsibility to bear in taking care of the family. Moreover, parties did not have a domestic helper from 2004 to 31 May 2023, which was about 19 years. However, the husband was an involved father whenever he was in Singapore, and had attended the older son's sporting events and competitions. Taking all these factors into account, the court found the indirect conditions ratio to be 60:40 in favour of the wife.

(g) Therefore, the overall ratio of contributions was 54.495: 45.505, in the wife's favour.

1.11 *UBQ v UBR* [2025] SGHCF 20

Wife maintenance – wife should make reasonable efforts to find a job during maintenance period post-divorce

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

Brief facts: The parties, aged 53 years (wife) and 56 years (husband) respectively at the time of this variation application case, married in 2006. The wife, a US citizen, had worked in the career services centre of an established New York university until 2008. The husband, a Canadian, worked at a sovereign wealth fund in Singapore. They had 2 children aged 15 years and 17 years respectively at the time of this case, who were schooling in Singapore.

The parties were married for 9 years. Their divorce and ancillary matters proceedings (with numerous applications and appeals) took about 10 years to complete. On 21 September 2020, at the ancillary matters hearing, the husband was ordered to pay:

(a) maintenance of $2,500 a month for each son;

(b) the full costs of the sons' education, health and enrichment costs;

(c) $10,000 for each child's travel expenses every year; and

(d) $6,000 a month for 48 months as wife maintenance; monthly rent for the wife's accommodation, capped at the rent paid by the husband for his apartment, for 48 months.

The wife filed an application to vary these maintenance orders 4 days before the wife maintenance was due to expire. She wanted, among other things:

(a) the maintenance for the younger son to be increased to $6,500, and for the elder son, to $8,000;

(b) annual travel expenses for each child to be increased to $20,000;

(c) for wife maintenance to be varied to "in perpetuity", alternatively by at least 5 years;

(d) for the husband to pay for her full health and medical costs; and

(e) for the husband to pay $7,000 for her and the sons' rent, which value could be increased up to 10% per lease renewal.

Key points:

(a) The court disallowed (e), on the basis that the issue of whether the husband should contribute to the sons' share of the rent should have been dealt with at the ancillary matters hearing and hence should be the subject of an appeal, not a variation application.

(b) The wife said that the sons' expenses had increased, and they also had depression and anxiety. Due to the latter, she had to spend time caring for them and hence had no time to find a job.

(c) Somewhat contradictorily, however, the wife claimed to have been active in serving on multiple committees and volunteering with community organisations in order to network with business leaders. She also claimed to have made hundreds of job applications. However, the wife had not shown evidence of actual formal job applications and rejections – her efforts in any event seemed to have been made after the 48-month period where wife maintenance was payable, or were "feeble efforts in sending her out-of-date resume to her friends overseas". She had also allowed her CPA qualification to lapse. She played a lot of tennis at an exclusive social club (which she claimed to be for networking purposes), and travelled back to the US for a holiday 2 – 3 months a year.

(d) The High Court stated that the burden was on the wife to show that she had taken reasonable steps to find gainful employment. There was no material change to justify any variation of the maintenance orders for the wife.

(e) The husband had already transferred her about $1.4 million as her share of the matrimonial assets, and she had received about 6 years' worth of maintenance. That should have been enough for her to stabilise and find a job. She should have invested well. She did not do either of these things.

(f) The High Court was of the view that the original maintenance orders for the sons was generous – and remained generous 5 years later.

(g) For the reasons set out in paragraphs (c) – (f) above, the variation application was dismissed in its entirety. Both parties were in person – there was no costs order.

Note:
The case of **WZF v WZG [2025] SGHCF 1** also has several key points on non-disclosure and maintenance. You may read more about it in the write-up found in the next section on Custody, Care and Control.

2. Custody, Care and Control (as the main issues in the case)

2.1 *WZF v WZG* [2025] SGHCF 1

Division of matrimonial assets – non-disclosure amounting to fraud – custody – care and control – access

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

Brief facts: Parties were married in 2015, and had one child, born sometime in 2018. The husband had moved out of the rented matrimonial home sometime in July 2022. The wife commenced divorce proceedings in March 2023. Interim judgement was granted on 16 November 2023. Parties agreed that the wife should have care and control of the child.

Key points:

Custody, care and control and access

(a) The wife wanted sole custody of the child. The court noted that such orders are generally only made in exceptional cases e.g. where there is some evidence of abuse, or where the relationship of the parties is such that cooperation is impossible and the lack of cooperation is harmful to the child. There was nothing exceptional in this case which warranted departing from an order of joint custody. The husband had not been very involved in the child's life, but the solution was not to strip him of his decision-making powers over the child. The wife had said that the husband might be uncontactable, given that he was a foreigner, and his whereabouts might be unknown (i.e. he might not update her of his whereabouts in future). However, the court said that the wife would be perfectly entitled to make decisions in emergencies or where time was of the essence if the husband was missing for some unknown reason, or where necessary, apply to court to do so. In any event, there was no evidence in this case that the husband had any intention to go "completely off the radar".

(b) The wife had also wanted a "veto power" if parties were unable to agree on major decisions relating to the child. The court refused her request. Requiring the other party to be consulted and to make joint decisions might be administratively inconvenient, but it was the lesser evil as compared to giving one party "veto power" over the decisions of the other. Such a "veto power" would significantly alter the dynamics of the relationship between the two parents and trivialise the role of the parent who had no such power. The parents were supposed to be common partners in the enterprise of ensuring the child's flourishing, and a veto power would shift the dynamic towards a hierarchy where one party is a subordinate rather than an equal contributor. Of course, if the parties' relationship was so dysfunctional that the court would end up making all the key decisions on behalf of the parents, a veto power could be a useful way to minimise the ongoing friction between the parties.

(c) The husband had interim access to the child pending the ancillary matters hearing. However, the access had never progressed beyond two hours of supervised access on a weekly basis, although the interim order which had been made by consent on this issue ("the interim consent order") had provided for the possibility of more access, and possibly unsupervised access. The supervision was done by either the wife, her mother or father.

The husband wanted unsupervised access for two hours each day for four days of the week, and four hours on Sunday. He also wanted to increase video call access, and for school holiday time to be divided equally between the parties. The court noted that unsupervised access should be the norm, unless there were serious welfare concerns such as violence or inappropriate parenting, the child was estranged from the parent, and the parent-child relationship was in need of serious repair, or there were factors that would make it difficult for unsupervised access to be effectively implemented. None of these factors were present in this case. The court ordered video access to the child twice a week for 15 minutes, which it thought should be enough given the child's age. The husband was also to get 4 hours of unsupervised access and every Saturday, taking into account that he could have done more to exercise the access under the interim consent order.

(d) The wife wanted no make-up access, which had been provided for under the interim consent order, but the court did not see why this request should be acceded to.

Division of the matrimonial assets

(e) The husband had failed to make full and frank disclosure of his assets in his affidavit of assets and means, as well as in an affidavit filed pursuant to a discovery order made against him. The wife had taken out a discovery application after this, and the court had ordered that the husband provide various documents as proof of his assets. The husband filed an affidavit where he stated that most of the documents were unavailable. The court had analysed each of the items that the husband was supposed to disclose, and his explanation for his failure to disclose them. The court concluded that the husband was committed to hiding his assets and "coming up with farcical reasons of why he was not able to comply with his disclosure obligations." In summary, the court was of the view that he had failed to disclose any of his key assets from the start, and when certain assets were identified by the wife, the husband declared them, but claimed that none of the relevant documents allowing for meaningful valuation were available, and then when the wife provided documents suggestive of these assets being worth a princely sum, the husband ignored them, and urged the court to assume that these assets were worth nothing. This amounted to a fraud on the court.

(f) The court therefore drew an adverse inference against the husband by using both the quantification approach and the uplift approach. Using both approaches would be appropriate where the court is confident that one party is intentionally under declaring or concealing assets to a significant extent. This might potentially leave the non-disclosing party worse off than if they had just been transparent from the outset, but the consequences of hiding assets should be sufficiently severe that it encourages and fully incentivises parties to give full and frank disclosure.

(g) The court said that the appropriate approach in this case would be to try and define a value for assets that have some imperfect but reasonable proxies, while simultaneously allowing for an uplift of the assets to be granted to the wife in order to further compensate her for the lack of disclosure of assets for which it would not be possible to ascribe a value because there was absolutely no evidence that could be used for this purpose. In this regard, the

court went through the evidence available for a certain Indonesian company which the husband had shares in and ascribed a value to those shares. Based on this, the court returned $10,054,716 to the matrimonial pool. This sum corresponded to the paid-up share capital of the husband's shareholding in this Indonesian entity.

(h) The total asset pool available for division was $10,158,806.47, comprising the $10,054,716 sum, joint assets of $780.10, the husband's disclosed assets of $49,353.57, and the wife's assets of $53,956.80. If an additional sum is included in the management pool by virtue of an adverse inference rather than by disclosure, the non-disclosing party is not entitled to credit for it in the computation of contribution ratios. Therefore, the sum of $10,054,716 was not credited to the husband as his direct contribution to the pool. Hence, the ratio of direct contributions was 47.8:52.2, in the wife's favour. Indirect contributions were held to be 75:25 in the wife's favour.

(i) This marriage lasted for about 8 years, during which time the husband was away from home for work for long periods, as well as because he was forced to be away as a result of the Covid-19 restrictions. Thus, the wife was the main caregiver for the child. The court took this into account but noted that just as much as direct contributions play an outsize role when the management pool is extraordinarily large, the converse should generally be true, i.e. that indirect contributions would take on more prominence when the matrimonial pool is modest. In this case, the matrimonial pool was large. The court gave a 70:30 weightage in favour of direct financial contributions, given the large matrimonial pool, and relatively short marriage. This gave an average ratio of 41:59 in the wife's favour.

(j) The wife was given a further 10% uplift as a result of the husband's "blatant and egregious nondisclosure in this case which is seemingly without equal in our courts." The court said it was self-evident that the assets being hidden from the view of the courts were in the range of millions, based on the evidence which it had seen. Therefore, the final ratio after the 10% uplift of the wife was 31:69, in the wife's favour.

Child maintenance

(k) In the case of *XGA v XGB* [2024] SGHCF 47, the court intimated that expenses such as Netflix were luxuries that could not be claimed in the context of child maintenance. The court in this case, however, said that to the extent that the *XGA* court was suggesting that such streaming services would in principle never amount to claimable expenses, it disagreed with this position. Netflix services and other streaming services are increasingly quite conventional in many households in the same way broadband and/or other entertainment expenses for the home may represent conventional expenses, and are a substitute to often pricier cable television. So there was no reason in principle why this should not be allowed. The court thus allowed the Netflix subscription as an item when assessing the child's household expenditure.

(l) The court held that $1,000 a month for various enrichment classes was reasonable. However, the court did not wish to decide on which particular classes were appropriate.

(m) The child's reasonable expenses were held to be about $3,700 a month, excluding school fees. The husband claimed that he only earned about $7,500 a month. If this was really the case, and assuming the child's school fees would be at least $2,000 a month for an international school, and given that the wife earned more than the husband's declared income, then it would not be sensible or realistic to expect him to pay about half of his monthly salary for child maintenance. However, the court was not satisfied with the evidence of the husband's salary and concluded that he earned much more. Hence, he should pay at least half of the child's expenses.

(n) The wife wanted this child maintenance as a lump sum, but the court rejected this request. Lump sum child maintenance would be more appropriate in a situation where it was necessary to prevent further legal disputes between the parties, especially where there had been a multiplicity of legal proceedings between them. Another factor would be whether the parties had moved on, for example they lived in different continents, and one or both parties had remarried and had stepchildren to care for, and would not have very much contact in future. This was not the situation in the present case. Parties would have to continue to work together to parent the child, and the husband would have continued regular access to the child. The downside of lump sum child maintenance is that the child's expenses could vary significantly at short notice, for example if he moved from an international school to a local school. His needs and expenses would also change as he grew up. Also, lump sum maintenance could symbolically appear to take away from the sense of agency of the husband as the child's father, if the tangible financial link between father and child was removed. This would make sense if the father was not envisioned to be in the child's life anymore, but not when the father was expected to continue to be part of the child's life.

Wife maintenance

(o) The court ordered no wife maintenance, even though the husband was probably earning a lot more than the wife, since the wife was already earning about $14,800 a month, and had previously been able to support herself without being reliant on the husband. Moreover, she had been awarded a larger share of the matrimonial pool.

2.2 *WYL v WYK* [2025] SGHCF 10

Custody – care and control, 9 year old child, parent with health issues

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

Brief facts: In this case, the divorcing couple had a 9-year-old son. An ancillary matters order was made – the husband appealed regarding the orders on the matrimonial home, care and control of the child, and child maintenance.

Key points:

(a) The appeal regarding the split of the matrimonial home was dismissed – it was a factual issue concerning the amount paid on renovations, so it is of no legal interest, in LAB's view.

(b) The husband wanted care and control of the child, with overnight access to the wife once every alternate weekend. However, since the filing of the appeal, the husband suffered a stroke and had been hospitalised for three months. After his return to the matrimonial flat, the wife had helped him with some of his daily needs, but hoped that he would move out. The medical report on the husband said that he was independent in basic activities of daily living, but required supervision in "instrumental activities of daily living like money management, meals, and ensure medication is taken etc". In the circumstances, he did not appear to be in a state to care for the child, and his appeal on the care and control order was dismissed.

(c) Child maintenance had been ordered at $1,000 a month, but the husband did not seem capable of gainful employment for some time. The High Court therefore set aside the order of maintenance with liberty to apply.

2.3 *WVZ v WVY* [2025] SGHCF 12

Custody – split care and control

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

Brief facts: The parties' marriage lasted for about 14 years before the wife filed for divorce. There were 2 children, a 14-year-old son, and an 8-year-old daughter. There was a decision on the ancillary matters ("**AM**") which both parties appealed.

Key Points:

Split care and control

(a) The district judge had made an order for split custody in this case, which the High Court upheld. The husband was to have sole care and control of the son, and the wife was to have sole care and control of the daughter, with each parent having reasonable access to the child not in their care and control, "for key events". The High Court stated that "Courts are generally loath to separate siblings in custody tussles, but this is not an inflexible rule." The High Court noted that the wife appeared to be comfortable taking care of the daughter, contrary to the husband's allegations that she was a poor caregiver, and that the present access arrangement allowed both siblings to meet and bond with each other once every 2 weeks. The High Court noted that the 2 children were "not toddlers" and "seem to have grown accustomed to the separation". The High Court judge had spoken to both children separately and was of the view that disrupting the status quo would not be in the children's best interests.

Assets

Valuation

(b) The parties had co-owned an HDB flat which had been the matrimonial home. There was some dispute over the valuation date and which valuation report to use:

(i) Valuation date: The High Court agreed with the district judge's choice of valuation date, which was the closest to the resumption of the AM hearing in February 2023. (The first AM hearing had taken place on 5 April 2022, but there were subsequent AM hearings from 11 May 2022 to 27 December 2022 which were taken up by the husband's multiple summons applications. Hence the AM hearing proper only "recommenced" on 14 February 2023.)

(ii) Valuation report: The High Court agreed with the district judge's decision to use the wife's more recent valuation of a flat in the neighbouring block as at January 2023, versus the husband's valuation, being the price of a sale transaction within their block in August 2022.

Lack of evidence

(c) The husband had argued that certain items should not have been added into the matrimonial asset pool since they were inheritance assets or debts. However, the High Court judge did not disturb the district judge's findings on these, as the husband was not able to produce any evidence in support of his claims. The husband had also alleged that certain properties which the wife had in China were held on trust by her for him and his family – but once again, he was unable to produce any proof of this. He was also unable to produce proof for his allegation that the wife had dissipated assets, and for his request for an adverse inference to be drawn against the wife. Bare allegations do not suffice – one must have some evidence to justify an adverse inference. Finally, the husband claimed that the wife only partially declared her China "CPF" moneys and retirement pension. In the hearing below, the husband had used handwritten calculations to justify his claims, without providing any official documents from the relevant Chinese authorities. The High Court agreed with the district judge that these calculations were speculative and could not be relied upon.

One-sided divorce agreement signed under duress without legal advice

(d) The wife had signed a divorce agreement 2 months before the divorce proceedings commenced, which gave the husband 100% of the matrimonial home, and which prohibited the children from communicating with their maternal grandparents. The district judge had not given weight to this divorce agreement, since the wife had signed it without the benefit of legal advice, and had signed it under duress, as the husband had exhibited violent tendencies and had damaged her office equipment before threatening her to sign it. It was also unfair to the wife. The High Court agreed with this.

Note:
The case of ***XBV v XBU*** **[2025] SGHCF 7** also has several key points on shared care and control. You may read more about it in the write-up found in the next section on Procedure.

3. Procedure

3.1 *XBV v XBU* [2025] SGHCF 7

Civil Procedure – appeals – filing appeals within prescribed time – shared care and control

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

Brief facts: Parties had two children aged 10 years and 8 years respectively at the time of the hearing. Interim judgement in the divorce was granted in October 2022. There was also a consent order on the division of assets and spousal maintenance. Subsequently, the district judge made orders on custody, care and control on 29 November 2023 (namely, joint custody, with shared care and control, with the wife having the children from Thursday after school to Sunday evening, and the husband having them the rest of the time). The parties were supposed to work out the details in terms of the timing of the handover, as long as it happened on Sunday evening.

Further orders were made on various child-related matters, on 20 May 2024, including the handover time of the children for access, as the parties could not agree on these matters. The husband appealed against the district judge's order that the children would be handed over to him every Sunday at 6 pm – he wanted the handover on Sunday at 9 am instead.

The wife said the husband had made a procedural error as he did not appeal against the order that the children would be handed over on Sunday evening, but only appealed regarding what time on Sunday evening the handover should take place.

Key points:

(a) The husband should have appealed against the 29 November 2023 orders, when the district judge ordered the children to be handed over on Sunday evening. The husband's appeal against the 20 May 2024 orders was, in effect, an attempt to appeal against the 29 November 2023 orders, even though the timeline for appealing against the latter had expired. The court was of the view that it was empowered to amend the 29 November 2023 orders under Rule 831(3) – (4) FJR 2014[2], but was not minded to do so. A party must comply with the procedural rules to exercise his or her rights of appeal. The court also observed that there was no material change of circumstances which would have justified a variation of the 29 November 2023 orders.

(b) On the facts, there was no reason to change the handover time. The husband had argued that he could not do leisure activities with the children on the weekends with such a late handover time, but the court noted that he could still do such activities with them on the weekdays, since he had flexible working hours, and he also had them for half of the school holidays. He could also have dinner with them on Sunday evening. Fixing the handover time at 9 am on Sunday morning would have resulted in a disproportionate apportionment between the parents of the time they had with the children, which should be roughly equal, since it was a shared care and control order. The wife had about 3 days and 4.5 hours with the children (if school hours were not included, this would be 2 days and 22.5 hours). The

[2] The equivalent sections under the new Family Justice (General) Rules 2024 would be Part 19 Rule 9(4) and 9(5).

husband had the children for 3 days and 19.5 hours (if school hours were not included, this would be 2 days and 19.5 hours). If the husband's proposed 9 am handover time was acceded to, the wife would only have 2 days and 13.5 hours with children, while the husband would have 3 days and 4.5 hours with the children. This skewed apportionment of time was not in the children's best interests.

(c) The husband cited various cases to support his argument that he should get the children on Sunday morning, but these cases were not shared care and control cases, so the court was of the view that these were all distinguishable.

(d) The court accepted that as a general proposition, the weekends might be the best time for parents to spend time with their children, and it is thus important for both parents to spend quality time with their children on weekends and public holidays. However, each case depended on its own facts. In this case, it was in the best interests of the children to spend roughly the same amount of time with each parent.

(e) The wife was awarded $3,000 in costs.

3.2 *XEW v XEV* [2025] SGHCF 5

Matrimonial proceedings – issue of jurisdiction – habitual residence

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

Brief facts: The parties in this case were married in 1992 in Norway. The husband was a Norwegian citizen. The wife was a US citizen. They had two adult children, neither of whom lived in Singapore. On 17 April 2023, the wife commenced divorce proceedings in Singapore. On 5 July 2023, the husband applied to dismiss the wife's writ of divorce on the grounds that the Singapore court had no jurisdiction under s 93(1) of the Women's Charter ("WC"). The district judge hearing the application decided that the Singapore courts had jurisdiction on the basis that the husband was habitually resident in Singapore from 17 April 2022 to 17 April 2023 ("the Material Period"). The husband appealed.

Under s 93(1)(b) WC, the Singapore courts will have jurisdiction to hear the divorce matter if either party to the marriage is "habitually resident in Singapore for a period of 3 years immediately preceding the commencement of the proceedings". This is a determination of fact. The residence must have been adopted voluntarily, and there must have been a degree of settled purpose in residing in that jurisdiction. The issue was whether the husband's presence in Singapore was a settled one, and whether his long absences from Singapore during the Material Period broke the period of residence.

Key points:

The High Court dismissed the husband's appeal. It took into account the following in its decision:

(a) The husband had spent 19.5 months out of 36 months away from Singapore during the Material Period. However, this was not in and of itself determinative, as he was a well-travelled businessman with commitments around the globe. On the facts, the husband had

appeared to regard Singapore as a base from which he operated. He had spent significantly more time in Singapore than any other country from 2022 to April 2023. Although he travelled extensively, he would always return to Singapore.

(b) He permanently resided in a sailboat with cabins moored in Singapore. He was the chairman and sole shareholder of the company that owned the sailboat.

(c) The husband held an employment pass in Singapore during the Material Period.

(d) The husband's long period of residence in Norway for about eight months occurred in 2020 when Covid-19 travel restrictions were in place. He had not been liable to pay tax in Norway since 2005, and had been careful not to spend more than half the year in Norway to avoid becoming a tax resident.

(e) The husband had deliberately applied to change his residency to "Ordinary Resident" in Norway after the wife's commencement of divorce proceedings in Singapore. The Norwegian National Population Register as at 21 July 2023 stated that the husband had "immigrated from" Singapore.

(f) The husband had commenced divorce proceedings in Norway in June 2023. However, the Norwegian Court of Appeal dismissed this application on the basis that the husband had spent the last 13 to 14 years in Singapore, he had run a business in Norway for many years while being based in Singapore, and had not purchased a home of his own in Norway as at the time of the hearing.

3.3 *WVD and others v WUR and others* [2025] SGHCF 9

Civil Procedure – Notice – Extension of time to file notice of appeal out of time

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

Brief facts: The first applicant in this case was the sole executor and trustee of his late mother's estate. The other applicants were his children (and grandchildren of the deceased). The respondents were the sons and other grandchildren of the deceased. All parties were beneficiaries under the deceased's will. In short, this case involved a massive family feud, with most of the family members against some other family members. The respondents had commenced a suit seeking an account of the deceased's estate from the applicant. The district judge had found that the applicant had failed in his fiduciary duties as executor and trustee, and ordered him to provide an account. The applicant wanted to appeal – the deadline to do so was 21 March 2024. The deadline was missed, and the application for extension of time to file the notice of appeal was filed 2 months after judgment was issued on 7 March 2024, on 7 May 2024.

The applicant said that he had gone to LAB and PBSG (Pro Bono Singapore) for help during the period 14 – 21 March 2024. Then he applied for an extension of time to file a notice of appeal on 21 March 2024 at the Family Justice Courts, but this should have been filed in the High Court. He subsequently filed it in the High Court – but to the General Division. He should

have filed it in the Family Division. The Applicant filed it in the Family Division on 7 May 2024.

Key Points:

(a) The High Court found the length of and reasons for the delay unacceptable.

(b) The court also considered that the applicant's case was without merits – the basic duty of an executor is to provide an account of the estate, which is what he was ordered to do.

(c) Moreover, there would be prejudice to the respondents if the extension of time was granted, given that the applicant already had an outstanding costs order of $70,000 against him, and he had tried to seek legal aid for the intended appeal – hence it seemed he would not be able to satisfy any potential costs orders made against him.

3.4 *XHG v XHH* [2025] SGHCF 13

Offer to Settle – Costs

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

Brief facts: In this case, the High Court had made orders in the ancillary matters on 14 January 2025. The court had ordered costs against the husband on a standard basis, except in respect of the costs involved in having to respond to the husband's fifth affidavit of assets and means, which he had filed with the leave of the court, very close to the hearing.

Key points:

(a) The wife had made an offer to settle on 27 June 2024, and said that she should be entitled to indemnity costs from this date to the date of the judgment, because the orders that had been made in the ancillary matters hearing were not better for the husband than what was in her offer to settle. However, the High Court noted that the parties had entered into a consent order in respect of custody, care and control and access on terms set out in the husband's own offer to settle (made on 27 September 2024), on 31 October 2024. If the wife wished to maintain her offer to settle after this, she had to renew it, with or without amendment to the amount. However, she did not do so. Hence, her offer to settle had expired on 31 October 2024, before the date of the ancillary matters hearing. The wife's request for indemnity costs from 27 June 2024 was therefore not acceded to by the court.

(b) The husband did not disclose various items such as the fees for the private investigator he had hired, bank statements for a certain period, whether he had certain bank accounts, and whether he had substantial expenditures in excess of $4,000 for a certain period. There was no court order for him to disclose the specific information. However, the husband had provided this information in response to certain allegations made in the wife's affidavit. This was information that the husband could have provided and explained much earlier, and his conduct led to the court and the wife expending time and effort to deal with the evidence urgently. The court was of the view that the husband must have known that these items of information were material, but still refused to provide them, despite requests from the wife, until the last minute.

(c) The wife had acted in person at the ancillary matters hearing, but had been represented until the eve of the hearing. Her written submissions filed after the hearing included submissions on costs, which were "clearly penned by the practised hand of a solicitor". Hence the court decided to award her costs, even though litigants in person are not normally awarded party and party costs. The husband was ordered to pay costs of the ancillary proceedings on a standard basis fixed at $5,000 and $2,000 on an indemnity basis for the wife's costs of responding to his fifth affidavit. The wife had asked for indemnity costs on the basis that the husband had caused her emotional and reputational harm, but these allegations were unproven, and in any event, the ancillary matters hearing was not the right forum to seek compensation for distress and loss of reputation.

3.5 *WPG v WPF* [2025] SGHCF 19

Courts and Applications – Judges – Recusal

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

Brief facts: The appellant had applied for the district judge to recuse himself from hearing the parties' divorce proceedings. This application was dismissed, and the appellant appealed to the High Court. The appellant was the defendant husband in the divorce action. The appellant claimed that the district judge was biased against him during the divorce trial on 9 September 2024 by refusing his multiple requests to adjourn the trial despite his medical condition.

The appellant had obtained a medical report which diagnosed the appellant with "significant coronary artery stenosis" as well as other medical conditions and recommended that he was medically unfit to attend court from 13 August 2024 to 30 November 2024. However, despite this, the district judge ordered the trial on 9 September 2024 to proceed, though he gave the appellant leave to attend the proceedings via Zoom. Midway through, the appellant complained that he was unwell and an ambulance that he had arranged to be on standby took him to a hospital.

The district judge noted that the appellant had been given six adjournments over the course of his interlocutory appeal, and another six adjournments of the course of the contested divorce proceedings, from September 2023. He therefore had no court proceedings from September 2023 to July 2024 to deal with. However, he had chosen to put off his angioplasty procedure during this period, despite a recommendation from his own doctor. Curiously, he fixed this procedure on the first date of the hearing of the contested divorce hearing on 13 August 2024 with only 15 minutes' prior notice given to the court. He had also arranged for an ambulance several days before the 9 September 2024 trial, even before he faced any signs of an actual medical emergency. By this time, it had been two years since the filing of the writ of divorce.

Key points:

(a) The High Court held that the district judge was entitled to take the procedural history of the case into account as it was relevant in exercising his discretion on whether to allow a further adjournment. He was obliged to consider the recommendation in the medical report, but was not bound by it. There was no evidence that the district judge had any actual or apparent bias in forming the view that the appellant was wilfully trying to stall the proceedings.

(b) A judge cannot be expected to recuse himself just because he ruled against the litigant, or had ruled against the litigant on numerous occasions if that litigant had made the same unmeritorious applications repeatedly.

(c) In the circumstances, the High Court held that the district judge was not biased, and even if he was wrong to have ignored the medical report, it only meant that he had exercised his discretion wrongly or made a wrong judgement. It did not mean that he was biased against the applicant.

(d) The appeal was therefore dismissed.

4. Marriage – Nullity

4.1 *Kee Cheong Keng v Dinh Thi Thu Hien* [2025] SGHCF 15

Declaration of sham marriage – failed application for grant of letters of administration

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

Brief facts: The deceased husband married his wife on 14 May 2013, in Singapore. He died on 18 June 2017, leaving behind an HDB flat in his sole name come with his mother as a permitted occupier. The wife was a Vietnamese citizen. The deceased's mother ("the mother") wanted to apply for letters of administration, but could not, since the deceased was still legally married at the time of his death. The mother than applied to nullify the marriage on the basis that it was a sham marriage. She wanted a declaration that the marriage was a sham marriage, that the grant of letters of administration of the deceased's estate be issued to her, and to exclude the wife from any share of the deceased's assets. The mother had served the court papers on the wife in Vietnam through substituted service by advertisement in a Vietnamese newspaper. The wife never responded, and was absent throughout the court proceedings.

On the facts, it appeared that the deceased had willingly entered into a sham marriage with the wife. He had told his family about it during a family dinner in September 2013, saying that he had been approached by some marriage agents who asked him to marry the wife in exchange for certain payments. However, the wife had apparently defaulted on her payments subsequently, and became uncontactable. The wife did not attend the deceased's wake and funeral, and the mother was not able to contact her. The wife had never lived in the HDB flat, and the mother had never met her. Her story was backed up by the deceased's siblings. There was no wedding celebration, and no photographs of the deceased and the wife together. The witnesses to the marriage were not known to the family.

Key points:

(a) The High Court noted that the present proceedings were not the correct procedure to obtain a grant of letters of administration. That should only be done after the present proceedings were concluded. The mother was granted leave to amend her prayers for relief in the statement of claim, to confine it to the issue of whether the marriage between the deceased and the wife was a sham marriage, and if so, whether it was void under the Women's Charter ("WC").

(b) The High Court was satisfied the facts that it was a sham marriage, solely to allow the wife to enter and work in Singapore and eventually apply for permanent residence of citizenship, in exchange for financial benefits to the deceased. As the marriage was solemnised before 1 October 2016, it could not be voided under s 105(aa) read with s 11A(1) of the Women's Charter ("WC"). However, the High Court was of the view that:

(i) it was against public policy to contract an immigration-advantage sham marriage (as this was), even before the enactment of s 11A WC.

(ii) Such a marriage corrupted the sanctity of marriage. Marriage is void unless it is solemnised on the authority of a valid marriage license. In order to get the

marriage license, parties need to declare whether they are prevented from marrying by the WC or any other law. In this case the parties submitted a false declaration at the time of their marriage by failing to declare that it contravened penal laws such as s 57C(1) of the Immigration Act.

(iii) There was also a danger of the state's institutions and benefits such as public housing and social services being open to exploitation should the sham marriage not be declared void.

(iv) It would also be unfair to the beneficiaries of the deceased's estate, and also affect the legitimate interests of the mother as the occupier of the HDB flat.

(v) For all the above reasons, public policy required the court to declare the sham marriage void, and not permit the "spouse" of the sham marriage to inherit the other party's assets.

5. Succession and Wills

5.1 *XAU v XAU and XAV* [2025] SGHCF 4

Testamentary capacity when testator just underwent major operation – not irrational not to provide for wife in a sham marriage

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

Brief facts: In this case, the appellant's husband did not bequeath any of his assets to the appellant in his will. In fact, his will expressly stated that he did not wish to give any of his property to the appellant, as he had merely married her to help extend her stay as an accompanying person to her child who was studying in Singapore, and the marriage had never been consummated. Instead, the deceased bequeathed all his property to his half-sister, the second respondent. The first respondent, who was the deceased's nephew, was appointed the executor and trustee of the will. He was not the second respondent's child, but the child of another of the deceased's sisters. The first respondent obtained probate on the estate. However, the appellant commenced proceedings to challenge the validity of the will. Her application was dismissed by the district judge. The appellant appealed.

Key Points:

The High Court dismissed the appeal.

(a) The appellant was formerly the tenant of the deceased, and started staying in his flat in 2011. Briefly, it appears that the deceased agreed to marry the appellant out of sympathy, to allow her to extend her stay in Singapore. They married on 16 October 2013. However, after this, they had a lot of conflict, including over the appellant's refusal to pay the deceased rent. At this point, the deceased asked his friend, L, to arrange for reporters to come and interview him and the appellant about their marriage. Apparently, the appellant had not realised that the people who turned up and asked a lot of questions about her marriage were reporters. She was under the impression that they were the deceased's relatives. Two newspaper articles were published, which cast the appellant in a bad light, and made it clear that the marriage was a marriage of convenience, and a source of suffering for the deceased. The appellant was very distressed by the newspaper articles, and started to pay the deceased rent for November and December 2014. In return, the deceased issued the appellant receipts which he signed, certifying that he had received the payments, as payment for the water and electricity bills, taxes and other miscellaneous charges, and that the appellant was responsible for the daily living activities of the deceased, including laundry, cooking, housekeeping, hygiene and accompanying him to his medical examination and other matters. On 18 December 2014, the deceased signed a receipt certifying that the appellant had fully settled the rent for the period of August 2011 to October 2013, which is before the parties were married. On the same day, the deceased also signed a letter authorising the appellant to rent out one of the rooms in the flat. The receipts stated that the appellant would be responsible for all matters relating to the room rental, including expenses, and would pay the deceased $600 every month, amongst other terms. The appellant rented out the room from January 2015 onwards at $1,800, and paid $600 a month to the deceased. The deceased took no steps to annul the marriage or divorce the appellant during this time.

(b) In July 2015, the deceased felt breathless, and the appellant took him to hospital. During his time in hospital, which was for a couple of months, the deceased asked L to visit him, and told him that his marriage to the appellant was a sham, and that she did not care for him – she did not even visit him in hospital. He did not want to leave the flat to the appellant. He asked L to prepare a will, so that he could leave his flat to his half-sister, whom he was close to, and because she had gone through a hard life and was poorer than the deceased and his siblings. L assisted to prepare the will, and got the first respondent to help arrange for the execution of the will. The two witnesses were the first respondent's brother and friend. They also asked C, the wife of the first respondent's eldest brother, who was effectively bilingual, to assist with the interpretation of the will. L brought the will to hospital for the deceased to sign, and C explained the contents of the will in Mandarin to the deceased. The will was then witnessed by the two witnesses. L kept the will.

(c) After the deceased's death, the appellant closed the deceased's bank account and withdrew the remaining sum of $3,222.45, and also claimed the deceased's CPF monies which amounted to $39,989.76. She kept both sums for herself.

(d) After the first respondent was granted probate, he and another of the deceased's nephews went to the deceased's flat to tell the appellant to vacate it, as it had been left to the deceased's half-sister. There was some dispute as to when exactly the appellant saw a copy of the complete will. The appellant's case is that she only saw the will in its complete form after 1 July 2016, when she obtained a certified true copy of the will and the grant of probate from the Family Justice Courts. Thereafter, she commenced proceedings to declare the will invalid.

(e) Testamentary capacity is *prima facie* established when the will is executed in ordinary circumstances where the testator was not shown to be suffering from any mental disability. A rebuttable presumption arises in such ordinary circumstances that the testator knew and approved of the contents of the will. This presumption, however, does not arise if there are circumstances that raise a well-grounded suspicion that the will did not express the mind of the testator. For example, where the will is irrational, having regard to its terms and the identities of the beneficiaries.

(f) This case was not a situation where the court could presume that the deceased had testamentary capacity when he signed the will, nor could the court presume that the deceased had known or approved of the will's content when he purportedly executed the will. This is because the deceased was made to execute the will 5 days after his left forefoot was amputated, and he might likely still have been affected by the physical and emotional pain of losing his forefoot. These were not ordinary circumstances. Therefore, there was a suspicion raised that the will did not express the deceased's mind. The respondent should have gotten a doctor to certify, right before the execution of the will, that the deceased met the essential requisites of testamentary capacity, and was in the right frame of mind to approve of the will's contents. There was no medical evidence as to whether the deceased was of sound mind, memory and understanding when he made the will. Just because the deceased had signed consent forms for anaesthesia and surgery did not mean that he had testamentary capacity when he executed the will.

(g) However, there was a medical report which stated that he was alert, comfortable, oriented to time, place and person and with stable vital signs on the date on which the will was dated. This would point towards the deceased having testamentary capacity, even if it did not unequivocally establish it.

(h) The court took the following into account:

(i) First respondent, C, L, and the two witnesses to the will testified that the deceased was alert, able to recognise them and spoke normally with them on the date the will was signed. None of them had anything to gain from the will, and were not directly related to the beneficiary.

(ii) The will was not irrational on its face.

(iii) The appellant could not show that she had no need to marry the deceased to extend his stay. Her daughter was not yet a Singapore permanent resident or citizen in 2013, and marrying the deceased could have increased the daughter's chances of getting PR status, as well as increased the appellant’s chances of staying beyond the date of her long-term visit pass which expired in 2018.

(iv) L and the first respondent had testified that the deceased told them that his marriage to the appellant was a sham. The appellant was not able to produce any evidence to show that her marriage was not a sham. The deceased had accompanied the reporters into the flat, and did not introduce them to the appellant.

(v) There was no evidence that the will was forged, nor was there evidence that the deceased's siblings had exercised undue influence over the deceased in the execution of the will.

(vi) However, the court noted that it was odd that the respondents did not have a doctor present to sign on the will as witness, or certify that the deceased had testamentary capacity. This would have been a wise move, given that the deceased was recovering from a major surgery. Drawing up one's will without professional help, especially at one's deathbed is not wise – the deceased could and should have sought professional help.