# LAB's Case Digest (January – March 2024)

This digest features various High Court cases on family law and procedure, published since the 2023 Case Digest, which LAB found to be of interest. Each case write-up only focuses on points which LAB found to be of interest and does not cover every issue that was considered in the case.

## WNW v WNX [2023] SGHCF 54[1]

*Division of matrimonial home in joint tenancy with third-party who died after Interim Judgement but before Final Judgement*

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

**Brief facts:** The husband and his mother had jointly bought an HDB flat several years before the parties married. After marriage, the property continued to be in the joint names of the husband and his mother. The husband and wife used the property as their matrimonial home. After 31 years of marriage, the parties started divorce proceedings, and Interim Judgement was granted. Prior to the Final Judgement being granted, the husband's mother passed away, leaving the husband as the sole owner of the matrimonial flat.

**Key points:**

(a) The husband argued that only 50% of the matrimonial flat should be counted as a matrimonial asset, and that the other 50% which he acquired upon the death of his mother should not be counted. However, the Family Court and the High Court on appeal rejected this argument. The 50% share of the matrimonial flat which was acquired by the husband in a manner akin to that of inheritance was an exception under s112(10) of the Women's Charter 1961 ("WC"), which provides that properties acquired by inheritance are to be excluded from the matrimonial pool, unless it is the matrimonial home.

(b) The husband also argued that the parties had agreed at a status conference that only 50% of the matrimonial flat should be counted as a matrimonial asset, and the wife should be held to this agreement. However, the Family Court and the High Court also rejected this argument. This agreement fell under s112(2)(*e*) WC, as "*an agreement between the parties with respect to the ownership and division of the matrimonial assets made in contemplation of divorce*". The court had a duty to have regard to this agreement in making a decision on the division of matrimonial assets but was not obliged to give effect to it. In this case, the agreement had been arrived at to allow the matrimonial asset division to proceed without having to take out a separate action in the High Court over the extent of the husband's mother's interests as a joint tenant. The parties had not contemplated what to do in the event that the husband's mother passed away in the course

[1] The judgement was reported on 27 December 2024 but was not included in the 2023 Case Digest.

of divorce proceedings. Therefore, it would not have been just and equitable to hold the wife strictly to this agreement.

(c) The husband had also argued that the District Judge had erred in giving a 80:20 weightage between direct and indirect contributions (the wife's direct contributions were considerably greater than the husband's). The reason for this was because although the parties had been married 31 years, they had been separated for 26 years. The husband therefore argued that a 50:50 weightage would be more appropriate. The High Court changed the weighting to 2:1 in favour of direct contributions, however, taking into consideration the fact that the parties had a child, and both parties had made contributions towards the care of the child.

**WTB v WTC [2024] SGHCF 1**

*Refusal of second extension of time to file a notice of appeal on ancillary matters*

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

**Brief facts:** The husband wanted to appeal against certain ancillary matters orders, but he did not file the notice of appeal within the stipulated time. He then applied for an extension of time, saying that he had failed to file a notice of appeal in time because he was trying to get legal aid. The court granted him a further 14 days. However, he did not comply again, and applied for a second extension of time. The court dismissed the application.

**Key points:**

(a) The court did not accept the husband's claim that he did not know that he was supposed to file a notice of appeal and he did not know how to file one. The husband had made no attempt to file a notice of appeal. With his experience of his first application for an extension of time, he ought to have at least sought help because "*he must know that a notice of appeal does not appear by itself*".

(b) There was a long delay of 118 days from the last day the husband was supposed to file the notice of appeal. In any event, the court was of the view that his prospects of success in the appeal were between slim to none.

**DDN v DDO [2024] SGHC(A) 2**

*Variation of access order – failure to exercise access rights and changing development needs of children*

Forum: Appellate Division of the High Court

**Brief facts:** The father in this case had access to the parties' 2 children (aged 15 and 12 years old) under a consent order made on 13 October 2021, as follows: Thursdays (after school) to

Sundays before 12 pm; half of the June and November/December school holidays; and overseas access (the "Access Arrangements").

On 1 June 2023, the mother applied to vary the Access Arrangements to remove the father's overnight and overseas access, and for him to only have weekly outings with the children on the weekends. The High Court varied the Access Arrangements to remove the father's overnight access, and reduced his access to 3 times weekly, with additional access on public holidays, the eve of the children's birthdays, and the father's birthday. The Parties remained at liberty to make arrangements for additional access and overseas access for the father by consent.

The father appealed against the High Court's decision. The appellate division dismissed the father's appeal.

**Key points:**

(a) The variation to the Access Arrangements was necessary to reduce the risk to the children's safety, given, amongst other things, the father's sexual promiscuity, disposition towards sex with underage girls, and proposal to his friend (who had introduced underaged girls to the father for sex) to look after the children.

(b) The father's failure to exercise his overnight or overseas access rights for almost 2 years was a relevant consideration. Where a party does not exercise access regularly and shows no intention to do so, there is little reason for the court to keep such access orders. The children should know with certainty and regularity on which days each parent would be caring for them.

(c) In assessing whether there is a material change of circumstances to justify a variation of an access order, the court should examine the circumstances of the children and the family dynamics, and not just the circumstances of the father. Even if the mother was aware of the father's sexual promiscuity prior to consenting to the Access Arrangements, this did not mean that there had not been any material change in circumstances since then. The appellate division was sensitive to the fact that the children were now at the stage of development where they were gaining a more mature understanding, and discovering themselves, and might be affected by the various circumstances surrounding their relationships with their parents.

**WJZ v WJY [2024] SGHCF 2**

*Couple lived apart for many years but marriage still a going concern – Interim Judgement date still used for determining asset pool*

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

**Brief facts:** This case involved a 27-year marriage, with the parties marrying in 1992. However, the parties lived apart for most of the marriage, with the wife living in India with the

child of the marriage (apart from fairly short stays in Singapore on a couple of occasions), and the husband staying in Singapore and New York.

The parties had bought a flat in Singapore soon after the marriage, paid for by the husband. The wife had given a power of attorney to the husband to sell the flat in 2007. After that, the husband avoided her calls and never accounted to her for the sale proceeds. Instead, he used the sale proceeds to buy a new property, in his own name, which he kept a secret from her. On the facts, it appeared that the wife tried to hang on to the marriage, but it was the husband who ghosted and rejected her. He also had very little contact with the son.

The wife and child were largely supported by the wife's father for most of the marriage, until he passed away in early 2018. Later that year, the wife filed a maintenance application against the husband, at which point the husband filed for divorce. Interim Judgement was granted on 13 February 2019. At that point, their son was over 21 years.

**Key points:**

*Joint accumulation of assets*

The joint accumulation of assets continues throughout the marriage up until the date of the Interim Judgement. This is unless there is a mutual and clear intention to have a clean break financially and non-financially. However, there is an exception to this for exceptionally risky investments, with the non-investing party sharing in neither the losses nor the gains.

(a) The husband tried to argue that the new property should not be part of the matrimonial assets, because the marriage had effectively ended so many years ago, in 2007, after which parties had no contact at all. However, the court held that even as late as March 2010, the wife was still sending affectionate emails to the husband, and it was he who was ignoring her, and refusing to visit her and the child in India.

(b) The court said that if the husband wanted to stop the joint accumulation of assets, he should have taken divorce action once there was four years of separation. In any event, the parties were legally married until the Interim Judgement date, and usually any assets accumulated during the period of separation would still be part of the matrimonial assets. This was unless both parties had mutually manifested a clear intention to have a clean break financially and non-financially – *i.e.*, there was no more intention to participate in the joint accumulation of assets or the making of any further financial or non-financial contributions to the marriage – (for example, making a divorce application, signing a deed of separation or other agreement).

(c) However, if a party has no wish to participate in an investment, to avoid any loss, and is willing to forgo the potential gain, that investment can be counted out of the matrimonial asset pool. Only the initial price paid will be taken into account as part of the matrimonial asset pool, but not the actual market value of the investment. This would be the default position for very speculative and risky shares. However, blue chips and property investments would generally be counted in the matrimonial asset pool,

unless the other party had indicated that he had no wish to participate in these types of investments.

(d) The husband in this case had very large trading losses of $480,000, which the court did not exclude from the matrimonial assets pool, however. This was because the wife did not tell him not to engage in this trading, or indicate that she was not willing to share in either the gains or the losses. If she had, then the husband would have had to bear these losses himself from his share of the matrimonial assets.

*Division of matrimonial assets*

The court calculated the parties' ratio of financial contributions to the marriage by taking the ratio of their CPF contributions (the wife had worked very briefly in Singapore) during the marriage, which reflected the ratio of their employment income during the marriage. This worked out to about 98.5:1.5 in the husband's favour. The court took into account the husband's trading losses which would have reduced his total income during the marriage. The court also took into account the fact that the wife's father had given financial support to her and the child throughout the marriage, which were gifts to her, which she used for the benefit of the family – and gave her a 10% uplift for financial contributions. In terms of indirect contributions, the court decided the ratio to be 15:85, in the wife's favour, since she had single-handedly looked after the son, and had used her father's gifts for the son's benefit. The husband got some credit for looking after the matrimonial properties. The eventual ratio was 51.75:48.25, in the husband's favour.

*Backdated child maintenance*

The wife wanted backdated maintenance for their son, but the court did not grant this, since the wife's contributions to the son's maintenance (*i.e.*, using her father's gifts to her for the son's benefit) had been taken into account in the division of the matrimonial assets.

*Loan given by third party to the husband to purchase new property*

A third party (the husband's "friend") had lent the husband sums of money, and claimed to have a share in the new property, because she had contributed to its purchase price. A certain sum of money the husband's friend had lent him was considered to be a debt which the court allowed to be taken into account as a debt of the marriage – this sum was to be deducted from the sale proceeds of the new property and paid out to the husband before the balance was divided between the husband and wife (*i.e.*, so the husband could pay back his friend). The issue of the friend's share in the new property was dealt with in a separate High Court case, where the court held that the sums paid by the friend to the husband were in the nature of loans, and that she did not have a beneficial share in the property.

**DGX v DGY [2024] SGHC 17**

*Registration for enforcement of foreign judgement – not for Australian non-money judgements*

Forum: General Division of the High Court

**Brief facts:** This case involved an application under the Reciprocal Enforcement of Foreign Judgements Act 1959 ("REFJA") to register in the High Court certain parts of a court order made by an Australian family court magistrate ("the Australian Order"). The High Court dismissed the application.

The Australian Order stated that the husband was to sell three Australian properties and one Singapore property (a HDB flat), and deposit the net proceeds into an Australian bank account that he was to open jointly with the wife. There was no determination of the division of the matrimonial property – this would be done in a subsequent hearing. The husband wanted to register two orders in the Australian Order which related to the HDB flat. These orders gave the husband the discretion to put the flat on the market for sale, to appoint an agent, and to sell it on such terms as he saw fit, etc.

**Key points:** These orders could not be registered under the REFJA, because they were not a "money judgement". The orders were for the sale of the HDB flat and did not order any party to make payment for any sum of money. Australian non-money judgements cannot be registered in Singapore. Relevant sections of the REFJA are ss2(3), 3(1) and 4(1) REFJA.

**WQI v WQH [2024] SGHCF 5**

*Care and control variation – when to interview children*

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

**Brief facts:** The divorcing parties settled the children'' issues via a consent order. There were two daughters, aged 9 and 8 respectively. The parties had agreed to shared care and control, but the wife applied for a variation of the consent order, asking for sole care and control, or alternatively for additional care time for herself. The Family Court dismissed her application, and she appealed. The High Court dismissed the appeal.

**Key points:**

(a) The consent order was made on 15 December 2020. The wife made the variation application sometime in 2023. Among other arguments, she said that she now had greater flexibility at work, and the daughters, who were two years older by now, wanted more time with her. The High Court said that this did not warrant a change of order yet, and that court orders, especially those involving children, must be given time to settle. The High Court further said that the wife was at liberty to apply for a review of the access in 10 months' time.

(b) The High Court noted that there were divergent views on parenting styles between the parents but was of the view that this did not warrant a change of the orders.

(c) The High Court agreed with the lower court that it was not necessary to interview the children for this case. In many cases, an interview with young children would be necessary where there is little for the court to make its determination, but to see what the child's preferences are. However, in this case, the order below was made by consent after mediation, and had been carried out with no difficulties or problems. So the court felt that the appeal must be dismissed, and it was not necessary to interview the children in order to make this decision.

(d) The lower court had imposed $9,000 costs against the wife. The High Court was of the view that this was "*a little high*" but was not unreasonable. The High Court did not impose costs for the appeal.

LAB's comments: The High Court giving the wife liberty to apply for a review of access 10 months later seems to indicate that if there have been no problems with the carrying out of the access/shared care and control arrangements, the court would be reluctant to disturb the status quo unless about 4 years have passed. The High Court also appears to have taken the approach that a court should not be hasty to vary arrangements made by consent after mediation had been carried out with no issue.

**WKM v WKN [2024] SGCA 1**

*Care and control and access application – judicial interview and child welfare reports*

Forum: Court of Appeal

**Brief facts:** On 13 December 2016, the Family Justice Court (the "FJC") granted the parties joint custody of their child, with care and control to the father, and liberal and overnight access to the mother. On 5 November 2021, after the child had been with the mother over the weekend, the mother lodged a police report that the child had been abused by the father and his helper and did not return the child to the father after this.

The parties then filed various summonses against each other in the FJC. On 6 January 2023, the FJC dismissed the mother's application for, *inter alia*, care and control of the child. She appealed to the High Court, which gave her care and control, after conducting a judicial interview with the child (see *WKN v WKM* [2023] SGHCF 25 – featured in LAB's Case Digest (2023)). The father appealed to the appellate division, which transferred the matter to the Court of Appeal.

The Court of Appeal allowed the father's appeal, ordering the father to have care and control of the child, with no access to the mother for the first 4 weeks. Thereafter, she could apply to the FJC for video call access for the next 4 weeks, and supervised access (by a family service centre) after that, with the access arrangements to be reviewed by the FJC in 6 months.

**Key points:**

(a) The Court of Appeal remarked that the mother's conduct had negative consequences on the child's life. She went far beyond gatekeeping to damaging the child's relationship with the father. The Court of Appeal ordered phased care and control and access arrangements for the mother to gradually gain insight on the effects of her conduct, and for the parents to work towards re-establishing their relationships with the child.

(b) The assessment of whether to conduct a judicial interview must be made with utmost sensitivity to the facts of each case. Judges should be very careful not to reveal the child's answers given during judicial interview on her preference in the arrangements for care and control and access. The child should not be made to feel she is responsible for making the choice to prefer one parent over the other.

(c) Child welfare reports are independent sources of information that enable the court to have a longitudinal view of the history of the case and a fuller understanding of the family's relationships and issues. The court, when relying on child welfare reports in making decisions, must be careful not to compromise the child's interests by revealing information unnecessarily. It should consider using updated child welfare reports to assess the child's needs, rather than just relying on judicial interviews.

**WPK v WPJ [2024] SCHCF 8**

*TNL v TNK-type case, not an exception to the 50% rule; post-graduate education is a child maintenance luxury*

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

**Brief facts:** The parties were married for about 23 years. There were two adult sons of the marriage. The wife was a homemaker for most of her marriage, assisted by a domestic helper. The Family Court divided the assets equally between the parties and awarded the wife backdated maintenance of $5,000 a month (coming to a total of $85,000), with no maintenance thereafter. The husband appealed against these orders, and the lack of provisions made for the tertiary educational expenses of the two sons. The High Court dismissed the appeal.

**Key points:**

*Division of matrimonial assets*

The court stated that in long, single income marriages like this one, where the non-working spouse was the primary home a during the marriage, it is generally fairer and more equitable for the matrimonial assets to be divided equally. The fact that the wife was assisted by a domestic helper throughout the marriage did not diminish her non-financial contributions to the marriage.

The husband's counsel had submitted that the husband's efforts in building up the matrimonial assets warrants an upward adjustment in his favour. The court stated that such upward adjustment should only occur in special situations where the assets available for division were extraordinarily large and obtained due to one party's exceptional effort. For example, matrimonial assets valued at around $20 million, $36 million, $42 million and $68 million (figures taken from actual cases). In these situations, the husband was an entrepreneur who put in exceptional effort and skill to enlarge the matrimonial assets. In this case, however, the bulk of the matrimonial asset pool was derived from the matrimonial home.

*Children's tertiary education expenses*

The husband said that the court should have taken into account the past, present and future educational expenses of the children when dividing the matrimonial assets equally. The eldest son had two more years of undergraduate studies in the US and thereafter wished to study law as a postgraduate degree, which would entail a further three years of study. The younger son wanted to pursue a master's degree in the UK. The burden of paying these expenses would fall on the husband alone, since the wife was not earning. He wanted the wife to bear a portion of this through an adjustment in her share of the matrimonial assets.

The court dismissed this argument. Both parties have a duty to maintain the children and support them through their education, including tertiary education. However, parents should not be obliged to provide their children with luxuries. In this case, the post-graduate law degree in the US and the master's degree in the UK were not reasonable expenses that parents should be obliged to bear. The children were expected to pay their own way by finding employment and saving up, obtaining scholarships, taking out education loans, or working part-time.

Since the wife had been a homemaker all her life, the chances of her finding employment in the future were slim, and her share of the matrimonial assets were all that she would have to sustain herself in old age. In deciding not to award her maintenance, the Family Court had already accounted for the children incurring hefty educational expenses which the husband had been bearing, including the final two years of the elder son's US undergraduate degree.

LAB's comments: The main takeaway from this case is neatly encapsulated by this sentence from the judgement: "*Reason draws a line at the first tertiary degree.*"

**WPV v WPW [2024] SCHCF 9**

*Division of sale proceeds of the matrimonial flat before or after refund of CPF contributions*

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

**Brief facts:** This case features a 20-year marriage, with three children, aged 17, 14 and 12 years old. The Family Court divided the matrimonial assets in the ratio of 57.45:42.55 in the husband's favour. The Family Court also ordered the cash proceeds from the sale of the matrimonial property to be divided in that ratio *after* payment of the parties' respective CPF contributions. The sole issue in this appeal was whether the sale proceeds should be divided

before or after the CPF contributions have been refunded. The husband wanted the sale proceeds to be divided *before* the CPF contributions were refunded. His appeal was dismissed.

**Key points:**

(a) In an earlier case, the judge in this case had said that repayment of CPF monies should always be paid *before* division of sale proceeds (*WBI v WBJ* [2022] SGHCF 22 ("*WBI"*)). However, the wife's counsel brought up the case of *CVC v CVB* [2023] SGHC(A) 28 ("*CVC*"), which disagreed with *WBI*, and said the repayment of CPF monies may be made before or after dividing the sale proceeds, and the court should have the discretion to adopt either approach, as appropriate, as long as the result in substance is that the total value of the share received by each party reflects the final division ratios ordered.

(b) The judge, without saying whether he agreed with *CVC* or not, just noted that whether the CPF refunds were made before or after the division of the sale proceeds, the difference was a mere 4%, or about $68,000. He was satisfied that the Family Court had calculated the ratio and made the orders on division "such that either way, the difference reflects the final ratio ordered." So he dismissed the appeal.

LAB's comment: The High Court's decision suggests that the approach in *CVC* ought to be preferred. Additionally, a difference of 4% may be seen as too *de minimis* to warrant a revision of the division of matrimonial assets on appeal.

**WUA v WUB [2024] SGHCF 10**

*Matrimonial asset pool, child maintenance*

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

**Brief facts:** In this case, the parties were married for about 21 years, with two children to the marriage aged 21 and 18 respectively.

**Key points:**

(a) The wife's engagement ring was considered to be a pre-marital asset, and was not included in the pool of matrimonial assets.

(b) In principle, a party who incurs legal fees on the divorce proceedings ought to use his own assets to pay for them first, rather than matrimonial assets. However, the husband in this case had paid for legal fees using his director's fees earned in 2021, *after* the date of the interim judgement. Therefore he was not considered to have dissipated matrimonial assets in paying his legal fees.

(c) The wife tried to argue that an investment account she set up was on trust for the children's benefit. However, there was no evidence that the trust was indeed set up, so it was considered as part of the matrimonial assets.

(d) The wife was actually in a much better financial position than the husband. The direct contributions ratio in this case was 76:24 in the wife's favour, and the indirect contributions was 65:35, in the wife's favour.

(e) The wife wanted almost $4,000 per month for the children's maintenance and estimated their expenses to be about $23,000 a month. The husband was only willing to pay up to $977 a month and estimated their expenses to be about $4,700 a month. Both children were studying overseas, in Europe/UK. The parties had an earlier agreement that the wife would pay for the son's expenses arising from his overseas education. The court decided to uphold this agreement. It further held that the reasonable monthly expenses for both children was about $6,400. The court said it did not consider "enrichment classes, summer camps, fitness classes and pet care" as reasonable expenses in the circumstances of this case.

(f) In terms of earnings, the ratio of the wife's earnings to the husband's was 85:15. The wife was eventually ordered to bear 70% of the children's expenses, with the husband paying 30% ($1,932 per month). However, this ratio was considered appropriate and fair as the husband would only have to pay for the children's expenses for a few more years, and there was also the investment account monies that was meant for the children, which could be so used, if the parties wished.

**WOZ v WOY [2024] SGHCF 11**

*Valuation of property and access arrangements*

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

**Brief facts:** The parties were married for 12 years and had one child of about 12 years old. The husband appealed against the ancillary matters judgement on the issues of the valuation of the matrimonial property and access arrangements.

**Key points:**

*Valuation of matrimonial property*

The husband wanted to adduce public records of actual sales of comparable properties to the matrimonial home, which he submitted was a more up-to-date price than what was available at the ancillary matters hearing date. The court refused to on the basis that the valuation of the matrimonial assets is to be assessed as at the ancillary matters hearing date, with whatever information is available as of that date.

*Access arrangements*

The husband's main grievance was that the access arrangements were unworkable. The order required the wife to bring the child to the ground floor lift lobby of the place where the wife and child were residing, and the husband was supposed to take the child and have access thereafter. The wife did so, but the child would often only stay several minutes before returning to her mother. When the husband did manage to spend time with the child, she apparently would just do her homework quietly, and not respond to him. The court dismissed the appeal, in effect stating that it was up to the husband to be patient and find his own way to make the access work. However, the husband was granted liberty to apply after three months, in case the existing arrangements really did not work, and some changes were required.

LAB's comments: One question is whether the wife had done enough by only bringing the child down to the lift lobby to meet the husband. It would seem that, taking a therapeutic justice approach, the wife should have done more – such as persuade the child to live with the husband and tell the child to be more responsive. When faced with such a situation, parties may wish to seek the incorporation of measures to help build the parent-child relationship and facilitate the husband having more meaningful access with the child – *e.g.*, DSSA access or some sort of counselling session.

**WRP v WRQ [2024] SGHCF 12**

*Variation of consent order*

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

**Brief facts:** In this High Court appeal case, the wife was a homemaker throughout the marriage. The husband was a businessman but was unemployed at the time of the appeal. The marriage lasted about 16 years, and there were three daughters, aged 20, 17 and 14, by the time of the appeal.

A consent order was entered into at the time of the divorce, in 2013. Parties agreed that they would have joint custody of the children, with care and control to the wife. The husband would pay the wife lump sum maintenance of $1 million, and $1 million for the children's maintenance (which he did). They would continue to reside in the matrimonial home, which would be sold in the open market after the youngest daughter reached the age of 21 years. The balance sale proceeds after deducting the expenses of sale would be divided equally between the parties, with the husband refunding his own CPF account from his share of the sale proceeds.

In 2023, the husband applied to vary the consent order and the wife applied for children's maintenance. The husband wanted to sell the matrimonial home and to claim from the wife payments he had made for her and the children's living and household expenses from the date of the interim judgement and until the date the matrimonial home was sold. He also wanted the CPF refunds of both parties to be made before the sale proceeds were divided.

The district court dismissed the wife's application but allowed the husband's application in respect of the matrimonial home. The wife appealed.

**Key points**: The High Court on appeal emphasised that a very strong justification would be needed to vary a consent order, such as fraud, mistake and a lack of full and frank disclosure.

(a) The High Court noted that the district court's order eliminated much of the benefits the wife was entitled to from the original consent order, *i.e.*, a roof over her head, a share of the capital appreciation earned, if any, and more value from the husband being responsible for paying off the mortgage, and gave these benefits back to the husband, without making other adjustments to the wife's benefit. This was unfair, because in return for the benefits, the wife had agreed not to lay claim to the husband's other assets, which were considerable. The District Judge did not take this into account.

(b) The consent order was not unworkable, and both parties were represented by lawyers at the material time. The husband had tried to argue that the wife's unpleasant behaviour towards him and his father (who was living with them) amounted to new circumstances. The court rejected this argument, for lack of evidence. In any event, the acrimony was not long and drawn out, nor was there any physical injury inflicted. The husband had remarried and moved out of the matrimonial home (leaving his father still in the matrimonial home with wife), but this did not make the consent order unworkable.

(c) However, the court noted that the consent order was silent on how the wife's CPF refunds should be made, and this was a gap which should be remedied. It was also important to have clarity on the issue of how the ongoing mortgage, property tax and other expenses of the house were to be borne, which the consent order did not provide for.

(d) The court therefore ordered that the wife should make the refunds to her CPF account from her share of the sale proceeds. The husband was ordered to continue with the mortgage payments (as that was the intention behind the consent order, *i.e.*, that the wife would give up any claim to the husband's other assets, in exchange for being given an equal share of the matrimonial home – so making her pay for any part of the mortgage payments would contradict this intention). However, the wife as the person residing in the property ought to be responsible for half of the property tax and other expenses.

(e) The husband's appeal for reimbursement of the extra maintenance was not allowed, because it was his own decision to go beyond the maintenance obligations set out in the consent order. If he had done so because he had a separate understanding or agreement with wife after the consent order, then he should take out a separate action for this.

LAB's comment: The consent order should cover all the details of who should pay what, in a situation where the parties continue to reside in the same residence after the divorce. Secondly, we should always ask whether the variation of the consent order leaves parties in roughly the

same position they would have been in had the consent order been followed. If one party seems to benefit or lose out significantly, then it is much less likely that the court would allow the variation.

**WQG v WQF [2024] SGHCF 13**

*Division of matrimonial assets and child maintenance appeal*

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

**Brief facts:** This appeal case features an almost 25-year marriage. There was one 11-year-old son. The parties both worked throughout the marriage. The wife's income was about $7,500 a month, and the husband's income was about $7,200 a month. (It was not explicitly stated in the judgement, but it appeared that the wife had care and control of the child.)

**Key points:**

(a) The husband had been cheated of almost $34,000 in a scam. The wife wanted this amount to be returned to the matrimonial pool. This was refused. The High Court noted that there was no evidence that divorce proceedings were imminent at the time the husband was scammed, nor that he was complicit in the scam.

(b) The district court did not include the personal liabilities incurred by both parties in the pool of matrimonial assets because there was no evidence that the debts were incurred for the benefit of the family. The wife wanted these to be included, and the court agreed. The liabilities were incurred during the marriage and were for the parties' personal benefit. The size of the liabilities may affect the parties' indirect contributions, but not the identification of the assets.

(c) There were certain unit trusts purchased by the wife from her pre-marital funds – the court excluded these from the matrimonial pool.

(d) The matrimonial property was partially purchased with pre-marital funds, and the wife therefore argued that the district court ought to have given a higher weightage to the direct contributions made to the property. The High Court rejected this argument, because the matrimonial property had not massively increased in value by the wife's exceptional efforts. Therefore, there was no reason to attribute a greater weight to direct contributions.

(e) The district court had assessed the child's reasonable expenses to be about $2,694 a month, and for the husband to pay $1,350. Certain expenses such as hiring a domestic helper, condominium maintenance fees and car expenses were excluded. Tuition and enrichment expenses were moderated from $3,114 to $1,500, given the parties' earning

capacities and debts. The High Court agreed with this and rejected the wife's request for a higher maintenance sum, i.e., $2,275 a month.

The parties' direct financial contributions were 29.3 (wife):70.7 (husband), and their indirect contributions were equal. This made for a final ratio of 39.7 (wife):60.3 (husband).

LAB's comments: One interesting point is that the wife's monthly expenses were about $22,000 a month, in contrast with the husband's $3,000+. Her personal liabilities (at almost $200,000) were also far higher than the husband's (about $80,000). However, the judgment did not go into the reasons for these liabilities and expenses, and the contrast in these amounts did not seem to affect the assessment of the indirect contributions. Nonetheless, for completeness, it may be prudent to first find out the specifics of the liabilities and expenses, when considering whether to rely on this case.

**VEG v VEF [2024] SGHCF 14**

*Child maintenance variation – lack of full disclosure*

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

**Brief facts:** The parties got divorced in 2012. The child of the marriage, a daughter, turned 17 years old at the time of the High Court hearing. The ancillary matters order had been made by consent, and was subsequently also varied by consent in 2021. The wife applied to vary the court order again, in respect of the daughter's maintenance, which the husband had to pay. She wanted, amongst other things, an extra $350 to cover an increase in the daughter's accommodation costs and living expenses (if she went to study overseas). The wife's monthly income was about $4,000, and the husband earned more than $16,000 a month. The district court allowed the application in part (increasing the amounts for the daughter's living expenses, tuition expenses, and psychiatric expenses). The husband appealed.

**Key points:**

*Matrimonial assets*

At the appeal hearing, the High Court asked the wife to produce her bank statements for the past 12 months. She produced statements from January to August 2023, as she had closed her accounts in August 2023. Three of these accounts had been disclosed to the district court. However, one of the accounts had not been disclosed to the district court. This was an investment account which had about $200,000 in it. The wife had liquidated her investment assets at the end of August 2023, and transferred the liquidation proceeds to one of the remaining three accounts. The wife claimed that the monies in the accounts were an inheritance from her father who died in 2016.

The High Court was of the view that these funds would have been relevant to the district court's assessment of whether there had been a material change in circumstances warranting a change in the agreed maintenance payments. Also, the wife did not explain the timing of and reason

for the liquidation of the investment (just before the appeal hearing). This alone would have been sufficient to disallow the variation application. In any event, on the facts, the High Court was of the view that the increase in the various expenses was not significant/not proven.

*Child maintenance*

The husband wanted the daughter to keep receipts for the spending of her pocket money, and to keep a travel log, to develop good spending habits. The High Court refused this request – the husband could ask the daughter to keep a record of her expenses, but this should not be a condition for the payment of maintenance. The context of the court's decision was that the husband had delayed in paying maintenance previously.

LAB's comments: Full and frank disclosure is very important in a variation application, not just the ancillary matters hearing.

**WUP v WUQ [2024] SGHCF 15**

*Short marriage, division of matrimonial assets*

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

**Brief facts:** The husband was a 58-year-old widower with two adult children in their 20s, when he married the wife (a 40-year-old Taiwanese woman) in 2019. They had met through a dating agency, and spent a year in a long-distance relationship before the marriage. The husband had persuaded the wife to move to Singapore, after which they got married. However, the marriage crumbled by May 2020. The wife returned to Taiwan.

The husband sent the wife two sums of money amounting to about $20,000 in total in July and October 2020, and the wife flew back to Singapore in March 2021, but the relationship soured after three weeks, and the wife went back to Taiwan, and never returned. The husband then filed for divorce in April 2023. Interim judgement was granted in July 2023.

**Key points:** The wife tried to file her statements concerning the ancillary matters by email, rather than filing an affidavit. The court might have disregarded the statements, but for the husband actually exhibiting these statements in his affidavit. There were various case conferences fixed which the wife did not attend. She also did not file any affidavits. (The judgement gives an account of how much effort the FJC went through in order to get the wife to file her affidavits and attend court, to no avail.)

The husband had assets of more than $10 million, but most of these were acquired before the marriage. Taking into account his liabilities and that several of his assets were in joint accounts with his deceased wife and his children, his net assets were about $6.5 million. The wife's assets were assumed to be nil. The court was of the view, on the evidence, that the wife "*brought nothing but grief to the marriage, and added nothing to it during its brief span*", and therefore nothing should be awarded to her. Each party was ordered to retain his or her assets in their sole names. The wife was awarded a lump-sum maintenance of $5,000 as a clean break, since

it was such a short marriage. The wife had been given about $400-$800 a month as an allowance when she was in Singapore.

LAB's comments:

(a) Given the wife's lack of contributions to the marriage, the lump-sum maintenance of $5,000 appears relatively generous. The wife received money from the husband, but did not do anything for him, not even housework, and did not live in Singapore for any considered length of time.

(b) There were some documents in the husband's affidavit which referred to the wife as "Cindy". However, there was actually no evidence or explanation that the wife was Cindy. The court reminded counsel that "*this sort of sloppiness in other circumstances might be detrimental to their client's case*". Attention to detail is important.

**VZJ v VZK [2024] SGHCF 16**

*Short marriage, one child, whether interest element of a mortgage repayment should be excluded when calculating direct financial contributions*

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

**Brief facts:** This case features a 9-year marriage. The parties had lived separately from each other since July 2016, when the wife moved to Hong Kong with the child, with the husband's consent. The child was 11 years old at the time of the ancillary matters hearing. The husband was a law firm director, and the wife was a successful banker in Hong Kong.

**Key points:**

(a) Parties agreed on joint custody, but disagreed on whether the child should continue to reside in Hong Kong. The issue of where the child of the marriage should reside is generally treated as a custodial issue. The husband had argued that the wife should have obtained a relocation order, but the High Court held that this was not necessary. The husband and wife could make a relocation decision by consensus. If not, either of them could apply to court for a relocation order. In this case there was sufficient evidence that the husband had consented to the relocation, and moreover he had taken no legal action to bring the child back to Singapore. The child had been residing in Hong Kong for nearly 8 years, and the wife was the primary caregiver. It would be disruptive and probably traumatic for him to be separated from his mother and uprooted from his current residence in Hong Kong. Therefore, the court ordered the child to continue residing in Hong Kong for now with the wife. Any future relocation decision should be made by consensus between the parties, failing which they should get a court order.

(b) The parties also disagreed on the school that the child should study at while in Hong Kong. The husband favoured the school that the child was currently studying at, which had a more Singapore-centric curriculum. However, the wife said that the child was struggling in the school, and unhappy. The wife wanted to be able to make this decision solely. The High Court disagreed. This was the decision the parties should make jointly. The court ordered the parties to attend counselling to try and resolve this issue by consensus.

(c) The court ordered the wife to have sole care and control of the child, and to hold the child's birth certificate, but made no order on her application to be solely authorised to renew the child's passport.

(d) The court went through the parties' assets and direct financial contributions. Their joint asset comprised the matrimonial home, which had been mortgaged. One legal point which arose is whether the interest element of the mortgage repayment ought to be excluded when calculating the direct contributions of parties to the matrimonial home. The wife submitted that the interest paid for a two-year period should be excluded because the husband was often late in his repayments, and as a result, was required to pay hefty interest rates charged by the mortgagee bank. The court decided not to adopt the wife's approach, because it would, amongst other things, require the court to undertake a very tedious enquiry into the applicable interest rates at each juncture. This approach would go against the grain of the broad-brush approach.

(e) The direct financial contributions ratio was 60.9:39.1 in the husband's favour. Indirect contributions were assessed as 70: 30 in the wife's favour. The parties had lived together only for about 3.5 years, both had been in full-time employment throughout the marriage, and had made indirect financial contributions in roughly equal proportions during this time. The wife had also not sacrificed her career to take care of the family – she was professionally successful. However, the wife had been the child's primary caregiver since birth. She had also paid for the child's daily expenses after the move to Hong Kong. Although the husband had visited the child and spent time with him in Hong Kong, he was not that involved as a father. Equal weightage was applied to both types of contributions, and the final ratio was 45:55, in the wife's favour.

(f) The wife wanted backdated child maintenance, and she also calculated the child's monthly expenses as more than $10,000 and wanted the husband to pay half of the sum. The court adjusted the expenses, taking away items such as tuition, birthday gifts, eating out with family/friends, and holiday/travels. The wife's items also included the child's share of the monthly household expenses, but this included items such as "parent allowance", "holidays/travel" and "pet", all of which were not reasonable maintenance expenses for the child. The wife's rent was also covered by her employer. Therefore,

the court assessed the child's reasonable expenses to be only about $3,400 a month. The husband was ordered to pay half of this.

(g) The child's maintenance was backdated to the date the wife first filed the writ for divorce. It was not backdated earlier, because the husband had visited the child and paid for some of the child's expenses during these visits, and the husband's failure to pay maintenance for the child had already been taken into account when assessing his indirect contributions.

**WVS v WVT [2024] SGHCF 17**

*Division of matrimonial assets, child maintenance – long marriage, dual income*

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

**Brief facts:** The parties were married for about 18 years. During this time, they had separated for some years, but then reconciled, and continued to live together, until the wife moved out and started divorce proceedings, which was about a year before the interim judgement was granted, in December 2019. They had three children, aged 15 (boy), 13 (girl) and 11 (boy) years old.

**Key points:**

*Division of matrimonial assets*

(a) There were various factual disputes regarding the matrimonial asset pool (worth about $7.5 million), and the parties' direct financial contributions. One issue of interest is that the husband had inherited a property from his father in 2009, in joint names with his mother, but it was not fully paid up. The mortgage payments for this property were made using half of the rental proceeds of the property during the marriage. The court did not regard the entire property as a matrimonial asset, but only that portion of it which was acquired during the marriage. That is, the exact sum paid to reduce the mortgage loan during the marriage. Also, the other half of the rental proceeds of the property went into a joint bank account held by the husband and his mother. 50% of the account balance which belonged to the husband was considered as part of the matrimonial assets.

(b) Similarly, an insurance policy bought by the wife before the marriage, but partially paid for during the marriage, was included as part of the matrimonial assets – but only a proportion of its value. Companies which were incorporated when the parties were living separately, but which continued to operate during the marriage, including after the parties reconciled, were included as part of the matrimonial assets.

(c) The eventual direct financial contribution ratio was 33:67, in the wife's favour. The indirect contributions were 50:50. The final ratio was 59:41 in the wife's favour.

*Children issues*

(d) The wife wanted shared care and control of the children. However, the court did not accede to this request, and ordered that the father have sole care and control (the children had been living with him since the wife moved out, and he had been quite an involved father during the marriage). In assessing what was in the children's best interests, the court considered their wishes and independent opinions, given that they were of "*sufficient age to express them [i.e. the wishes and independent opinions] coherently*". The court was also of the view that it would be disruptive to implement shared care and control, not just practically but also emotionally, given how different the parties' parenting styles were.

(e) The husband earned about $5,000 a month, and the wife $6,397.50 a month. The court was of the view that a reasonable estimate of each child's monthly expenses was about $1,500, inclusive of their tuition fees and medical expenses. The court held that this was to be shared 55:45 between the wife and the husband respectively, which worked out to be $2,475 per month for the wife and $2,025 per month for the husband.