IN THE APPELLATE DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2024] SGHC(A) 12

Appellate Division / Civil Appeal No 67 of 2023

Between

DBA

… *Appellant*

And

DBB

… *Respondent*

In the matter of Divorce (Transferred) No 386 of 2021

Between

DBB

… *Plaintiff*

And

DBA

… *Defendant*

GROUNDS OF DECISION

[Family Law — Matrimonial assets — Division — Dual-income and single-income marriage]

[Family Law — Matrimonial assets — Division — Non-financial contributions]
[Family Law — Matrimonial assets — Division — Total value of matrimonial pool]
[Family Law — Matrimonial assets — Central Provident Fund — Repayment of moneys used to purchase matrimonial home]
[Family Law — Maintenance — Child]
[Family Law — Maintenance — Wife]

DBA
v
DBB

[2024] SGHC(A) 12

Appellate Division of the High Court — Civil Appeal 67 of 2023
Woo Bih Li JAD, Debbie Ong Siew Ling JAD and See Kee Oon JAD
12 April 2024

26 April 2024

Debbie Ong Siew Ling JAD (delivering the grounds of decision of the court):

Introduction

1 This appeal involves the question of whether the parties' marriage was a dual-income marriage or a single-income one. It touches on the "classification" of a marriage for the purposes of determining whether the structured approach in *ANJ v ANK* [2015] 4 SLR 1043 ("*ANJ*") applies in the division of matrimonial assets pursuant to s 112 of the Women's Charter 1961 (2020 Rev Ed) ("Women's Charter"). This is significant because the structured approach to the division of matrimonial assets applies to "dual-income" marriages but not to "single-income" marriages (*TNL v TNK and another appeal and another matter* [2017] 1 SLR 609 ("*TNL*") at [46]).

Background

2 The appellant (the "Wife") and the respondent (the "Husband") were married on 26 September 1990. An interim judgment of divorce was granted on 6 October 2021. The parties were married for 31 years. Presently, the Husband is 58 years old and the Wife is 56 years old.

3 There were three children in this marriage, [B], [C] and [D], who are presently aged 26, 22, and 15 years old. The parties have joint custody of [D], who is presently the only child under the age of majority; the Wife has care and control of him, and the Husband has liberal access.

4 The Judge of the Family Division of the High Court (the "Judge") held that the parties were in a dual-income marriage and applied the *ANJ* structured approach in dividing the matrimonial assets. She made the following findings in respect of the parties' direct and indirect contributions to the marriage, presented here in this Table:

	Husband (Respondent)	**Wife (Appellant)**
Direct contributions	95%	5%
Indirect contributions	60%	40%
Average ratio	77.5%	22.5%

She ordered that the matrimonial assets be divided in the ratio of 77.5:22.5 in favour of the Husband.

5 The Judge ordered the matrimonial home to be sold in the open market and the sale proceeds less: (a) sales commission, (b) incidental expenses and refund of Central Provident Fund ("CPF") contributions utilised by both parties

in the purchase together with interest accrued on the withdrawals and (c) the mortgage outstanding as at the date of completion of the sale, be divided in the proportion of 77.5% and 22.5% in favour of the Husband and the Wife respectively. Similar orders on the sale of three overseas properties held in the parties' joint names and one overseas property held in the Husband's sole name were also made, save that the issue of CPF refunds did not arise for these properties, and there was a further order for net rental income (if any) derived from these properties pending completion of sale to be divided in the proportion of 77.5% and 22.5% in favour of the Husband and the Wife respectively.

6 The Judge ordered the Husband to pay monthly maintenance of $1,500 for [D] and to pay for [C's] tertiary education in the sums of A$100,000 by 1 January 2024 and a further A$100,000 by 1 January 2025, in line with the Husband's proposals. The Judge also ordered the Husband to pay $700 as monthly maintenance for [B] until he completes his tertiary education, as agreed by the Husband. The Judge ordered that there would be no maintenance for the Wife.

Issues in the appeal

7 There were three main issues in this appeal:

(a) whether the Judge erred in classifying the present marriage as a dual-income marriage and applying the *ANJ* structured approach in dividing the matrimonial assets;

(b) whether the Judge erred in the terms of the consequential orders that she made, including not allowing the Wife to retain the matrimonial home as part of the division of assets and in ordering that the CPF moneys utilised by the parties in purchasing the matrimonial home

should be refunded *before* distributing the sale proceeds to the parties in the division proportion that she had ordered; and

(c) whether the Judge erred in her orders in respect of child maintenance for [D] and in ordering no maintenance for the Wife.

Issue 1: Classification of the parties' marriage: dual-income or single-income

The Parties' Submissions

Wife's submissions

8 The Wife submitted that she should be awarded 50% of the matrimonial assets. Her primary submission was that the Judge had erred in classifying the parties' marriage as a dual-income marriage. She submitted that it should instead have been classified as a long single-income marriage in which she was a homemaker for most of the marriage. She argued that the Judge ought to have followed the trend of equal division in long single-income marriages identified in *TNL* at [48].

Husband's submissions

9 The Husband submitted that the Judge had not erred in classifying the marriage as a dual-income marriage, as the Wife had worked full-time except for a single year in 1998.

Our Decision

10 We found that the parties' marriage, which lasted 31 years, was a long single-income marriage.

11 The Court of Appeal had affirmed in *BPC v BPB and another appeal* [2019] 1 SLR 608 (at [102]) that "according to the existing framework laid out in both *ANJ v ANK* and *TNL v TNK*, one must first enquire whether the marriage is a long single-income or dual-income marriage. If it is the former, then the approach in *TNL v TNK* applies, and the court will generally tend towards equal division …".

12 In *UBM v UBN* [2017] 4 SLR 921 ("*UBM*"), the Family Division of the High Court held that "a 'Single-Income Marriage' would include a marriage where one party is *primarily* the breadwinner and the other is *primarily* the homemaker" [emphasis in original] (*UBM* at [50]), noting that it was not likely that "the Court of Appeal [in *TNL*] intended to draw a thick black line separating cases where the main homemaker worked intermittently for a few years in the course of a long marriage from cases where the homemaker had not worked a single day" (*UBM* at [49]). In particular, it noted that the Court of Appeal in *TNL* itself had cited *Yow Mee Lan v Chen Kai Buan* [2000] 2 SLR(R) 659 ("*Yow Mee Lan*") as an instance of a long single-income marriage (*TNL* at [51]). In *Yow Mee Lan,* the court considered the parties' marriage to be a single-income marriage even though it recognised that "the wife did work continuously during the marriage, first for third parties and subsequently for the husband himself" (*TNL* at [51]). *TNL* thus envisaged that in some single-income marriages, the spouse who is primarily the homemaker may also work part-time or intermittently over the course of the marriage.

13 We found that the parties' marriage in the present case was a single-income marriage as the Husband was primarily the breadwinner and the Wife was primarily the homemaker for the majority of the marriage. We emphasise in this regard that the focus of the analysis is on the *primary roles* carried out

by the parties in the marriage; a large disparity in income between the spouses does not in itself render the marriage a single-income marriage.

14 The evidence suggested that in the early years of the marriage when the children were younger, the Wife took on the main child-caring role at the expense of her career. [B], the eldest child, stated on affidavit that "when my siblings and I were younger, my father tended to work longer hours while my mother would be at home with us more as she had more flexible working hours". [B] also stated that "[i]n relation to performing the various household chores, my mother tended to do more of them when my siblings and I were younger, while it is now my father who does more of them since his retirement".

15 At the hearing, the Wife's counsel highlighted that the Judge erred in relying on an Excel spreadsheet prepared by the Husband in finding that the Wife was not a homemaker but had worked throughout the marriage. This Excel spreadsheet was a document setting out the Husband's account of the parties' work history and income throughout the years of the marriage. While the Wife confirmed that the companies or businesses with which she was involved were accurately reflected in the Excel spreadsheet, she argued that she only worked full-time for four years over the course of the entire marriage; the Excel spreadsheet thus did not support the finding that she was in full-time employment for most of the marriage. The Husband's counsel, on the other hand, argued that both parties had shared in the homemaking efforts such that it could not be said that the Wife was the primary homemaker in this marriage. We pause here to point out that just because the main breadwinner was involved as a parent to some extent, or contributed substantially to the financial welfare of the family, does not in itself render that party a primary or "joint homemaker" (if there was such a description).

16 We also noted that the Husband's own evidence of the parties' work history over the years corroborated the Wife's account that she was the primary homemaker. When the three children were young, they would have required a caregiver on a daily basis; the Husband's counsel at the hearing could not point to evidence that there had been someone else other than the Wife (such as the children's grandparents) who had carried out that role.

17 According to the Husband's own records, from 2001, the Wife took on contract work with a "Temp Agency" and thereafter worked for her own business from 2003 to 2013 before transiting back to contract work until 2021, with the exception of a two-year stint of full-time work in 2005–2006. The Wife's remuneration across her years of working was very low relative to the Husband's. According to the Husband's own computation, while his income from 1990 to 2021 was $5,766,283, the Wife's income was only $173,706 (with some information on some years of her income being unavailable). We observed that while the large disparity in income on its own did *not* transform a marriage into a single-income marriage, it was *consistent with* the Wife's narrative that she was the primary homemaker. The Wife gave evidence that her business was a small home-based handicraft business, which allowed her to take care of the children and the household while earning a side income. She also stated that she took a year of maternity leave following the birth of each of her children to care for them and breastfed each of them for about six months after they were born, and gave up opportunities in her career (such as an opportunity to attend company-funded further studies) so that she could be present to care for the children. Further, between 1991 to 1997, the Wife was an insurance agent; the Husband claimed that she was working full-time then but the Wife said that she was working part-time. We were of the view that it would not be accurate to say that she was working full-time as an insurance agent.

18 We found that the Wife's claim to have taken on more flexible (but less well-remunerated) work in order to have time to care for the children was generally corroborated by the Husband's own evidence and [B]'s evidence. The evidence supported the position that the Husband was primarily the breadwinner, and that the Wife was primarily the homemaker for the majority of the marriage.

19 It was not disputed that the Husband left full-time employment in 2016. However, the Husband himself had adduced evidence that he was engaged in contract work, and drew income even after 2016, from 2018 to 2020. When the Husband left full-time employment in April 2016, the three children of the marriage were 18, 14, and 7 years of age. In the Husband's affidavit of assets and means, his account of his care for the children focused on aspects such as preparing the children's breakfasts, ensuring that they were driven to school, coaching them in their studies, doing household chores, organising and participating in family dinners and outings, and engaging the children in their hobbies. The Husband's non-financial contributions, particularly significant from 2016, *would be* recognised when considering the proportions of division in the *TNL* context, but they did *not* displace the finding that the Wife was the primary homemaker in this marriage.

20 While *TNL* had held at [48] that in "*long* Single-Income Marriages, the precedent cases show that our courts tend towards an equal division of the matrimonial assets", there is no immutable rule requiring that each party in a long single-income marriage should receive a 50% share. The trends in precedent cases as well as the specific facts of each case must be considered. In *UBM*, the court noted at [72] that the husband was responsible for the generation of income in the marriage while the wife played a minimal role in that regard. It noted that the husband was close to the children; he actively looked after the

children despite being the main breadwinner, and had been retired since 1999, years before the interim judgment of divorce was granted in December 2015. The husband was awarded 60% of the assets in *UBM*.

21 We were satisfied that the Husband had played an active role at home alongside his role as the primary breadwinner. [B] had given evidence of the Husband's extensive involvement in the family, such as by contributing actively to household chores, fetching the children to and from their activities, tutoring the children and supporting their endeavours. The Wife did not dispute the Husband's affidavit evidence recounting his active involvement in the children's lives. She expressed appreciation that the Husband had been supportive of her in relation to the jobs that she took up on a part-time and intermittent basis. While the Wife asserted that she bore most of the household chores for large parts of the marriage, she conceded that at the very least, the Husband had helped out with the housework since 2016 after he stopped full-time employment.

22 We were of the view that it was just and equitable to divide the assets in the ratio of 60:40 in favour of the Husband. This would not undervalue the Wife's homemaking contributions, while giving due recognition to the Husband's generation of income in the marriage and his not insignificant non-financial contributions at home.

Issue 2: Consequential orders

Parties' Submissions

Wife's submissions

23 The Wife sought to have the matrimonial home and the properties in Japan and in Australia currently in the parties' joint names transferred to her. She also submitted that the Judge had erred by ordering, in relation to the sale of the matrimonial home in the open market, that the parties' CPF contributions to the matrimonial home be refunded to their CPF accounts *before* dividing the sale proceeds in accordance with the ratio for division.

Husband's submissions

24 In relation to whether the matrimonial home should be transferred to the Wife as part of the division of matrimonial assets, the Husband was agreeable for it to be transferred to the Wife if she could afford it. At the hearing, counsel for the Husband confirmed that the Husband was also agreeable in principle to transferring the other overseas properties which were jointly owned to the Wife, if this was workable based on the division order made by the court.

Our Decision

25 We first make a preliminary observation on the Judge's finding on the total matrimonial pool. At [81] of the Grounds of Decision issued by the Judge, the Judge had stated that the couple's "total assets" were $5,661,560.77. This statement was confusing as this sum did *not* include the value of the matrimonial home and properties in Japan, Australia and Birmingham that formed part of the matrimonial pool ("the Five Properties"). In our view, a court's judgment or grounds of decision on the division of matrimonial assets should set out clearly

the total value of the matrimonial pool, the proportions in which this pool is divided between the parties, and the consequential orders that implement the main division orders. In *CVC v CVB* ("*CVC*") [2023] SGHC(A) 28, this court observed (at [44]):

> In *USB v USA and another appeal* [2020] 2 SLR 588 ("*USB*") at [27], the Court of Appeal observed that "[t]he starting point of the division exercise… is the identification of the *material* gains of the marital partnership". Thus, the total pool of matrimonial assets ought to have been identified and valued before the first step of the *ANJ* approach is taken …

26 A court applying the *ANJ* approach is tasked with assessing the respective direct contributions of the parties as the first step in the exercise. In order to assign a ratio representing the parties' respective direct contributions, it is first necessary to identify and value the total pool of assets. This is matter of mathematics and logic.

27 In the present case, the Judge did not make findings on the valuations of the Five Properties and hence she also did not make a finding on the total value of all the matrimonial assets. Perhaps she thought this unnecessary as she had ordered the Five Properties to be sold and their net proceeds distributed in accordance with the division ratio. We point out that these orders for sale are consequential orders which should have been made only after the court has decided on the main division ratio. The division ratio, on the other hand, is reached through an exercise that requires the determination of the direct contributions ratio, which itself requires consideration of the total value of the matrimonial pool.

28 In the present appeal, the parties did not raise before us the issue of the valuation of the Five Properties, nor were they prepared at the hearing to submit on the matter. As we have found that this was a single-income marriage to which

the *ANJ* approach was not applicable, we were able to proceed with determining our orders without further submissions on these valuations. We considered the respective submissions which both parties had made in their "joint summary of relevant information" on the valuations of the Five Properties. Based on the values submitted by both parties, we estimated that the parties' total pool of assets had a value of over $7 million.

29 While the *TNL* approach does not specifically require the determination of the parties' direct contributions ratio, an estimate of the total pool is nevertheless relevant. Indeed, the "starting point of the division exercise… is the identification of the *material* gains of the marital partnership" (*USB v USA and another appeal* [2020] 2 SLR 588 at [27]). The size of the total matrimonial pool is a relevant factor to consider when a court exercises its discretion pursuant to s 112 of the Women's Charter to reach a "just and equitable" division. It can assist in providing the court a sense of what the parties' joint marital partnership was like and what material gains it produced. Further, a matrimonial pool of a very large size is a significant factor. Despite the trend in long single-income marriages that inclined towards the equal division of matrimonial assets, in *Yeo Chong Lin v Tay Ang Choo Nancy and another appeal* [2011] 2 SLR 1157, the homemaker wife in a 49-year marriage received 35% of the matrimonial assets. The Court of Appeal in *TNL* explained this outcome in *Yeo Chong Lin* (*TNL* at [52]) as follows:

> … This court upheld (at [82]) the … 65:35 distribution in favour of the husband [in *Yeo Chong Lin*]. However, … it is clear that a major factor that featured in the analysis was the exceptionally large size of the asset pool, which amounted to around $69m …

30 We ordered that the total pool of matrimonial assets be divided in the proportion of 60% to the Husband and 40% to the Wife. The Five Properties were to be sold in the open market by 30 October 2024, unless otherwise agreed

by the parties. The parties could agree, for example, for one party to sell his or her interest or share in any of the properties to the other party. It appears from the parties' submissions at the hearing that the CPF contributions used in the purchase of the matrimonial home came from the Husband's CPF account. We thus ordered that these amounts be repaid into the Husband's CPF account after the matrimonial home is sold from his share of the assets. The same approach will similarly apply should any repayments into the Wife's CPF account also be required. The parties were to retain the assets held in their respective sole names. The Husband was to pay the Wife any outstanding balance due to her within one month of the completion of the sale of the last property. The parties were given liberty to apply. The parties were to work out the sums such that, at the end of the day, the Husband would receive 60% and the Wife would receive 40% of the total pool of matrimonial assets.

31 We briefly address the Wife's argument that the Judge erred in ordering that the CPF moneys utilised by the parties should be refunded *before* distributing the proceeds from the sale of the matrimonial home to the parties in the division ratio ordered. We agreed that the Judge's order was inconsistent with the legal principles which were reiterated in *CVC* (at [106]–[107]):

> 106 When a property is sold and moneys from the parties' CPF accounts previously utilised for the acquisition of that property are repaid into their respective CPF accounts as required, these sums repaid must be taken into account in the calculations of the party's share of assets he or she is to receive in a division order. The funds in a party's CPF account belong to the spouse, like any other matrimonial asset received by the spouse pursuant to a division order. Clearly, moneys repaid to the parties' CPF accounts in this situation must be included in reaching the total share the parties have received as assets.
>
> 107 In so far as *WBI* stands for the proposition that the "repayment of CPF monies should *always* be paid before [the] division of sale proceeds" (at [10]), we are of the view, with respect, that this is incorrect. Repayment of CPF moneys may be made (1) *before* dividing the sale proceeds, or (2) *after* dividing the proceeds and payments are

> made from each party's share of the proceeds. … Ultimately, whichever approach is taken, the *result in substance* should be that the total value of the share received by each party must reflect the final division ratios ordered.

32 In the present case, the Judge ought not to have ordered that the parties' CPF accounts be repaid from the gross sale proceeds *before* distributing the proceeds between the spouses in the ratio of 77.5:22.5 she had ordered. This is because the consequence of such an order is that the parties will *not* be receiving the net proceeds in *that* ratio, as whatever amounts repaid into a party's CPF account will effectively be *additionally* awarded to that party, over and above the share of the proceeds that had been awarded to them under the division ratio.

Issue 3: Maintenance for child [D] and the Wife

Parties' cases

Wife's submissions

33 In relation to [D's] maintenance, the Wife submitted that the Judge had erred in finding that a reasonable assessment of [D's] monthly expenses for the purposes of child maintenance was $1,500 per month. The Wife submitted that $2,230 would be the appropriate monthly maintenance sum for [D].

34 The Wife also submitted that the Judge erred in finding that no maintenance should be ordered for her. She submitted that the Judge had failed to give sufficient consideration to the principle of financial preservation. She claimed that she required maintenance to maintain her standard of living, which included "staying in a condominium, using the credit cards provided by the Husband, [and] the usage of a car".

Husband's submissions

35 In relation to [D's] maintenance, the Husband submitted that the Judge had found [D's] reasonable expenses to be $1,500 per month, and thus the maintenance order of $1,500 per month already held the Husband solely responsible for paying for all of [D's] expenses. The Husband's position was that, while he believed that it was reasonable for [D's] maintenance to be paid in proportion to the Judge's ratio in the division of assets (*ie* 77.5:22.5), if the Judge's division ratio was upheld and [D's] monthly maintenance was fixed at $1,500, he was agreeable on a goodwill basis to pay $1,500 for the entirety of [D's] monthly maintenance.

36 As for whether maintenance should be ordered for the Wife, the Husband submitted that the Judge's decision of no maintenance should be upheld as the Wife was in employment drawing an income while the Husband had retired, and the Wife would be receiving a significant portion of the matrimonial assets which was sufficient for her needs.

Our Decision

37 On maintenance for [D], we did not disturb the Judge's order that the Husband pays $1,500 as monthly maintenance for [D]. However, we make the following observations on the Judge's findings.

38 The Judge found that [D], as a secondary school student in Singapore, needed $1,500 to live reasonably well given his family's standard of living. We observed that this figure was *below* the figure submitted by the Husband himself (and even further below the sum submitted by the Wife). The Husband had submitted in the court below that [D's] reasonable monthly expenses were $1,760 while the Wife submitted the figure of $2,230. In the court below, the

Husband took the position that his offer to pay $1,500 per month for [D's] maintenance, seen against [D's] reasonable monthly expenses of $1,760, resulted in him paying a higher share (*ie,* about 85%) of the maintenance than the proportion of the matrimonial assets that were awarded to him (*ie,* 77.5%); further, he highlighted that he was retired.

39 To the extent that the Husband submitted on appeal that child maintenance obligations should be borne by the parties in proportion to the parties' share of the matrimonial assets, we rejected that submission. The considerations for division of matrimonial assets and maintenance are not the same although the division may affect the maintenance to be ordered. If the Husband's position was that maintenance ought to be borne by both parents, then the underlying reason was a different one. Both parents had a duty to provide for their children (s 68 of the Women's Charter). The Judge should not have reached a figure of less than $1,760 as the reasonable figure for [D's] monthly expenses, as neither party submitted a figure below that. Nevertheless, we did not think that the Judge's order for the Husband to pay a monthly maintenance of $1,500, which worked out to him bearing about 85% of $1,760, was so unreasonable as to warrant interference with the order. The Husband had ceased full-time employment for some years and was also providing maintenance for the other two children. The Wife was working, and she would receive a substantial share of assets under our orders. Thus we did not disturb the Judge's order on maintenance for [D].

40 We add a reminder here which we think the parties should bear in mind. In both the quantification of child maintenance and the apportionment of the maintenance obligation as between the parties, a broad-brush approach is appropriate: *WBU v WBT* [2023] SGHCF 3 ("*WBU*") at [31] and [39]. As a child's needs and expenses may fluctuate from month to month, approaching

child maintenance from a "budget" perspective is sensible and practical, instead of focusing on counting which dollar is meant for which specific expense: *WBU* at [10]–[11].

41 As for maintenance for the Wife, we did not disturb the Judge's order that there would be no maintenance for her. The Wife would receive a substantial share of the matrimonial assets. She was employed and able to earn an income. In contrast, the Husband had ceased full-time employment for some time and was bearing almost the entire burden of providing for the children.

42 We therefore allowed the Wife's appeal in part, in respect of the proportions of division and made the consequential orders at [30] above. The appeal in respect of maintenance was dismissed.

43 We ordered costs of the appeal in favour of the Wife fixed at $11,000 inclusive of disbursements. The usual consequential orders were to apply.

Woo Bih Li
Judge of the Appellate Division

Debbie Ong Siew Ling
Judge of the Appellate Division

See Kee Oon
Judge of the Appellate Division

Ang Hui Tsun (Louis Lim & Partners) for the appellant;
Augustine Thung Hsing Hua (Yeo & Associates LLC) for the respondent.
