UNE *v* UNF
[2018] SGHCF 12

Case Number : Divorce (Transferred) No 1855 of 2016

Decision Date : 08 August 2018

Tribunal/Court : High Court

Coram : Debbie Ong J

Counsel Name(s) : Foo Soon Yien (BR Law Corporation) for the plaintiff; See Chern Yang (Premier Law LLC) for the defendant.

Parties : UNE — UNF

Family Law – Matrimonial assets – Division

Family Law – Ancillary powers of court – Third party claims – Case management

8 August 2018

Debbie Ong J:

Background

1 This case concerns the division of matrimonial assets ("MAs") in a long marriage stretching over almost 3 decades. The plaintiff shall be referred to as the "Wife" and the defendant shall be referred to as the "Husband". The parties were married on 16 October 1987. They have two adult children, a 25-year-old daughter and a 22-year-old son. The Wife left the matrimonial home at Toh Crescent ("Toh Crescent property") in October 2015. She filed a Writ for Divorce on 19 April 2016. The Interim Judgment of Divorce ("IJ") was granted on 28 June 2016.

2 Both parties are now retired. The Husband still receives income from his director's fees, and dividends from stocks and shares. The Wife had stopped working in 2006 and had assumed the role of a homemaker for around the last ten years of the marriage.

3 I highlighted to the parties that the joint summary of relevant information ("joint summary") they had jointly submitted is a key document which I would use as a summary of their latest submissions on their respective positions. The latest version of the joint summary was filed on 9 March 2018 by the Husband pursuant to my directions for him to supplement the earlier version with his references to supporting documents. I did not allow any new or further submissions in the revised joint summary. The Wife had indicated in her letter to the court dated 14 March 2018 that the Husband had made some new submissions in the revised joint summary. I considered the revised joint summary along with the points the Wife raised in her letter.

Division of matrimonial assets

4 As a general position, all assets and liabilities should be identified at the time of the IJ and valued at the time of the ancillary matters ("AM") hearing. The exception is that balances in bank and CPF accounts are to be taken at the time of the IJ, as the MAs are the moneys and not the bank and CPF accounts themselves. Thus in general, available values as close to the AM hearing date as possible will be used. Nevertheless, in this decision, where the parties have specifically agreed to use

a value for the asset or liability as at a different date, I adopt that value as well. The parties have agreed to take the balances in the bank accounts as at 31 March 2017.

Undisputed assets

5 The parties *agreed* on the following MAs and their values, set out as follows:

	Asset	Net Value ($)
Joint Names	Net sale proceeds from Hua Guan Crescent property	2,231,634.19
	Net sale proceeds from Punggol Crescent property	725,392.16
	Pebble property	2,379,117.31
	Cairnhill Rise property	2,476,034.42
	DBS account -8400	6,588.57
	DBS account -3563	12,312.57
	Citibank account -0115	1,896.71
	Citibank account -0166	7,917.82
	Citibank account -3748	8,873.21
	Citibank account -2005	335.47
	OCBC account	11,434.03
Wife's Name	POSB account -0033	165,319.10
	CPF Gold Savings	5,600.00
	DBS Supplementary Retirement Scheme account	153,894.70
	Citibank account -0476	1.12
	Citibank account -0560	148.57
	Central Depository (Pte) Ltd account	161.94
	CPF Medisave Account	28,925.03
	CPF Special Account	3,675.44
	CPF Retirement Account	84,214.93
Husband's Name	CPF Ordinary Account	111,787.27
	CPF Special Account	27,062.52
	CPF Medisave Account	47,635.70
	CPF Retirement Account	169,794.70
	Citibank account -5902	83,068.77

	DBS account -2416	3,499.35
	DBS account -9146	10,528.61
	DBS account -5736	4,340.92
	DBS Supplementary Retirement Scheme account	113,567.89
	UOB account	477,625.08
	HSBC account	17,920.15
	Central Depository (Pte) Ltd account	353,112.18
	HSBC bond	242,810.00
	Shares in Supplementary Retirement Scheme account	47,655.11
	Sale proceeds from [X] Country Club membership	16,515.20

6 There was no dispute that the following MAs have nil value:

(a) four of the parties' DBS accounts (*ie*, -8402, -8403, -8031 and -3617);

(b) one of the Wife's POSB accounts (*ie*, -1709);

(c) the Wife's CPF Investment Account;

(d) the Wife's IncomeShield policy;

(e) three of the Husband's Citibank accounts (*ie*, -7771, -7798 and -2399); and

(f) one of the Husband's DBS accounts (*ie*, -9147).

7 In their joint summary, the parties stated the following as agreed "liabilities":

	Liability	**Value ($)**
Husband's Name	Tenancy deposit for Upper Bedok property	10,400.00
	Tenancy deposit for Pebble property	10,000.00

8 I note that these two items are not matrimonial liabilities, insofar as they do not reduce the net value of the pool of MAs. Rather, they are items for which the Husband had to account. Thus I attributed these deposits to the Husband for inclusion in the pool of matrimonial assets.

Assets with disputed values

9 The parties *agreed* on the following being MAs but *disputed* their values:

Assets	Husband's Net Value ($)	Wife's Net Value ($)
In Joint Names		
Toh Crescent property	3,701,618.55	4,116,873.48
Upper Bedok property	1,799,468.09	1,808,029.71
Loan to Mr [T]	54,800.00	54,800.00 + 12,200.00
In Wife's Name		
Cash sum	3,231,713.47	3,000,000.00
Sale proceeds from shares of [H] Pte Ltd ("[H] shares")	351,035.56	
CPF Ordinary Account	203,598.50	17,862.24
Motor car	76,284	71,156.50
In Husband's Name		
Bank of China account ("BOC account")	2,400,000.00	200,000.00
Eight NTUC Income policies	0.00	
Cash withdrawn from Husband's UOB account		2,400,000.00

10 I discuss each category of MAs in turn to determine their values.

Assets in joint names

(1) Toh Crescent property

11 The following table sets out how the parties reached their respective net values for the Toh Crescent property:

Toh Crescent property	Husband's Value ($)	Wife's Value ($)
Gross value	4,320,000.00	4,800,000.00 (3 May 2017)
Outstanding loan	– 618,381.45	– 683,126.52 (10 April 2017)
Net value	3,701,618.55	4,116,873.48

12 The Toh Crescent property is held by the Husband, the Wife and the Husband's brother as tenants in common in unequal shares. The Husband's brother holds a 10% share of the property in his name, and he has stated in his affidavit that he intends to assert his right over 10% of any sale proceeds of this property. The Wife submitted that the parties are also beneficial owners of the 10% share held in the Husband's brother's name. Thus, she argued that the entire Toh Crescent property was a matrimonial asset, and included the full gross value of the Toh Crescent property in the joint summary. There was therefore a dispute as to the ownership of the 10% share in the Toh Crescent property.

13 In *UDA v UDB and another* [2018] 1 SLR 1015 ("*UDA*"), the Court of Appeal held that s 112 of the Women's Charter (Cap 353, 2009 Rev Ed) ("the Charter") does not confer power upon the court to adjudicate a third party's claim to an alleged matrimonial asset or make orders against the third party in respect of that asset. It set out the following options in cases where an asset legally owned by a third party is alleged by one or both spouses to belong beneficially to them:

> 56 If the property is legally owned by the third party, then the following options will be available to the court and the spouses.
>
> (a) First, the spouse who claims the property to be a matrimonial asset may obtain legally binding confirmation from the third party that this is so and an undertaking that the third party would respect and enforce any order that the court may make relating to the beneficial interests in the property.
>
> (b) If this is contested, either that spouse or the other who is asserting that the property belongs beneficially to the third party would have to start a separate legal action to have the rights in the property finally determined, *vis-à-vis* the third party, in which case the s 112 proceedings would have to be stayed until the rights are determined. This would be Option 2.
>
> (c) The third possibility would be for the spouse to drop his or her claim that the property is a matrimonial asset and allow the s 112 proceedings to continue without it.
>
> (d) Alternatively, that spouse may ask the court to determine whether the asset is a matrimonial asset without involving the third party's participation at all or making an order directly affecting the property. This is Option 1.
>
> 57 In respect of [56(d)] above, the family justice court should only take Option 1 if both spouses agree to it, as this course could result in the disputed asset being treated as a matrimonial asset and adjustments being made in the division of other assets to account for its value when in separate proceedings later it may be determined that the third party was both the legal and the beneficial owner of the property and neither spouse had any interest in it at all…

14 In the present case, the option in [56(a)] of *UDA* was not available because the Husband's brother contested the Wife's assertion. The option in [56(d)] was also not available because the Husband was not agreeable to it. The only viable options were therefore those in [56(b)] and [56(c)] of *UDA*, *ie*, either spouse commences a legal action against the Husband's brother, or the 10% share of the Toh Crescent property is not claimed to be a MA.

15 In the present case, the Wife had asserted a beneficial interest in the 10% share of the Toh Crescent property which was neither held in her name nor her spouse's name. Knowing that this is disputed, she is free to commence a separate legal action to have the rights in the property

determined *vis-à-vis* the third party, in order to pursue her best case ultimately in these AM proceedings. If she chooses not to do so, the court hearing the AM proceedings can proceed to treat the asset in accordance with the parties' respective legal titles to the property. In such situations, the court may consider specifying a time limit for legal action to be commenced. This strikes a balance between allowing parties to assert their rights on the one hand, and ensuring that AM proceedings are not unnecessarily delayed on the other.

16 I gave further directions to the parties on 30 May 2018 where the Wife was given an opportunity to commence a separate legal action within four weeks from that date, to have the rights in the 10% share determined, failing which the court would proceed to give its decision on the AMs. The Wife replied on 31 May 2018, submitting that the court should stay the adjudication of the 10% share and allow the AM proceedings in relation to the other matrimonial properties and the other ancillary reliefs to proceed. I declined to do so as I was of the view that the division of assets under s 112 of the Charter involves an exercise of the court's discretion over the *entire* asset pool, having regard to all the circumstances of the case. It is noted that the Court of Appeal in *UDA* clearly contemplated that if a separate legal action were filed, the entire s 112 proceedings should be stayed: see *UDA* at [56(b)]. Thus the parties were informed that the court's directions given on 30 May 2018 would stand. The Wife subsequently informed the court that she was dropping her claim to the 10% share in the Toh Crescent property. In the circumstances, only the parties' 90% share of the Toh Crescent property held in their names were included in the pool of MAs.

17 The parties agreed that the gross value of the Toh Crescent property is $4,800,000.00. They only differed on the value of the outstanding loan on the property. On balance, I preferred the Wife's position, because she had exhibited the relevant documentary evidence showing that the outstanding loan on the property was $683,126.52 as at 10 April 2017. Thus I attributed to the Toh Crescent property a net value of $3,705,186.13, which is 90% of the Wife's submitted net value of $4,116,873.48, for inclusion into the pool of MAs.

(2) Upper Bedok property

18 The parties agreed on $3,300,000 being the gross value of the Upper Bedok property. They differed on the property's net value: the Wife submitted a net value of $1,808,029.71 and the Husband, $1,799,468.09. On balance, I preferred the Wife's position, because she had exhibited documentary evidence showing that the outstanding loan on the property was $1,491,970.29 as at 10 April 2017.

19 I attributed to the Upper Bedok property a net value of $1,808,029.71.

(3) Loan to Mr [T]

20 The parties agreed that there was an outstanding loan of $54,800 due to them from Mr [T], to which Mr [T] also agreed. The parties also agreed that the original loan amount to Mr [T] was $67,000.

21 The Husband stated that Mr [T] had repaid a total of $12,200 as at 27 November 2016, of which a sum of $6,800 had been paid into the parties' joint Standard Chartered account, and the remaining sum of $5,400 had been paid to the Husband in cash. He stated that he had used the $5,400 to pay for the daily expenses for him, his son and his mother.

22 The Wife submitted that the Husband had to account for his receipt of Mr [T]'s repaid sum of $12,200.

23 I note that it was the Wife who closed this joint account in January 2016. As the parties had agreed to take the balances in the bank accounts as at 31 March 2017, the Husband's use of the remaining sum of $5,400 (received as at 27 November 2016) were considered living expenses ordinarily incurred. This sum is not significant in the light of the value of the pool of MAs. There was no need for the Husband to account for the sum of $6,800 which was paid into the parties' joint account.

24 I found that there was an outstanding loan of $54,800 due to the parties from Mr [T], and in the circumstances noted, there was no need for the Husband to account for the repaid sum of $12,200.

Assets in Wife's name

(1) Cash sum

25 The Husband submitted that the Wife holds a cash sum of $3,231,713.47, while she submitted that the sum is $3,000,000. Both parties refer to the Wife's 2ndAffidavit of Assets and Means ("AOM") dated 11 July 2017 for their values.

26 From the Wife's affidavit evidence, she had withdrawn a total of $3,231,713.47 from January 2016 to July 2016 from the bank accounts in her sole name, and she listed all 18 withdrawals made. The Wife stated that of the withdrawals, she had set aside around $230,000 for her living expenses. She also stated that for her living expenses, she would ordinarily have withdrawn money from her POSB account -0033.

27 I accepted that the Wife's use of the sum of $230,000 from January 2016 to July 2017 (time of the Wife's 2nd AOM) can be considered living expenses ordinarily incurred. In this regard, I note that the Husband's monthly expenses were much higher, being at least $72,000 (see below at [42]).

28 I found that the Wife holds a cash sum of $3,000,000.

(2) Sale proceeds from [H] shares

29 The Husband submitted that the proceeds from the sale of [H] shares on 3 January 2017 which amounts to $351,035.56 should be included in the pool of MAs. The Wife submitted that this sum was deposited into her POSB account -0033.

30 The balance in the Wife's POSB account -0033 had already been included in the pool. Any difference in value between the sale proceeds and the account balance can be considered living expenses ordinarily incurred. There was no need to further include the sale proceeds from [H] shares in the pool of MAs.

(3) CPF Ordinary Account

31 The Husband submitted that the Wife's CPF Ordinary Account balance was $203,598.50, while the Wife submitted it was $17,862.24 as at 2 August 2016. As the Wife had justified her submission with the relevant CPF Statement, I found that the value of her CPF Ordinary Account is $17,862.24.

32 After I delivered my decision, the Husband wrote to court to explain that his submitted figure of $203,598.50 included a sum of $185,738.26, which was refunded to the Wife's CPF Ordinary Account pursuant to the sale of the Hua Guan Crescent property. However, the Husband did not raise this point in his written submissions or at the oral hearing. The opposing side ought always to be given the

opportunity to respond to all submissions which should be made in the written submissions, at the oral hearing and if after the hearing, only where permitted by the court. It was fair to attribute to the Wife's CPF Ordinary Account a value of $17,862.24.

(4) Motor car

33 The parties agreed that the gross value of the Wife's motor car is its purchase price of $134,888. The Husband submitted that the motor car's net value is $76,284, without providing a basis or referencing the relevant documentary evidence for it. The Wife obtained the net value of $71,156.50 by subtracting the outstanding hire purchase payment from the purchase price. She calculated that the outstanding hire purchase payment as at 31 March 2017 was $63,731.50 (where there are 49 months of instalments of $1,275 and a final instalment of $1,256.50 outstanding).

34 I found the net value of the Wife's motor car to be $71,156.50. The lower value of the two submitted values is also more realistic in reflecting the value of a car which is generally a depreciating asset over time.

Assets in Husband's name

(1) BOC account and cash withdrawn from Husband's UOB account

35 I discuss the BOC account and the cash withdrawn from the Husband's UOB account together.

36 The Husband submitted that the account balance in the BOC account is $2,400,000. However, as the Wife pointed out, the Husband only exhibited a BOC "confirmation of time deposit" of $200,000 in relation to this account. Given the lack of evidence on the remaining $2,200,000, I attributed the value of $200,000 to the Husband's BOC account.

37 In respect of the cash withdrawn from the Husband's UOB account, the Wife submitted that he withdrew $2,400,000 from his UOB account in March 2017. The Husband exhibited in his affidavit a letter from UOB dated 13 March 2017 stating that UOB had withdrawn that sum for the issuance of a cashier's order. The Wife submitted that the Husband had not shown evidence of the destination account of the cashier's order.

38 On the other hand, the Husband submitted that the Wife had not shown how this sum of $2,400,000 was missing from the time she had listed the parties' assets in an email dated 17 September 2015, or since her disclosure as at the Wife's 1st AOM dated 22 August 2016.

39 The parties agreed that the Husband's UOB account balance was $477,625.08 as at 31 March 2017. The onus was on the Husband to explain his exhibited UOB letter with respect to the large withdrawal sum of $2,400,000 on or about 13 March 2017, which is prior to 31 March 2017, the date the parties agreed to use to take the bank account balances. He had failed to do so prior to the delivery of my decision. I therefore added this sum back into the pool of MAs.

40 It is important to note that while the Husband himself submitted that his BOC account balance was $2,400,000, I attributed the value of $200,000, and not $2,400,000 as the balance in his BOC account. When I delivered my decision, I accepted the possibility that the Husband withdrew $2,400,000 from the UOB account and put the sum into the BOC account. At that time, it was not clear how the BOC statement of a time deposit of $200,000 on 13 March 2017 fits into this analysis. Given the state of the evidence at the hearing, I found it fair to include $2,400,000 into the pool of assets, as well as attribute the sum of $200,000 as the balance in the BOC account to be included

into the pool.

41 After I delivered my decision, the Husband wrote to the court to confirm that the sum of $2,400,000 was transferred from his UOB account to his BOC account. He explained that he had "inadvertently" omitted to exhibit the relevant documents evidencing the deposits into the BOC account. I did not allow further arguments on this to reopen my finding, as this was allegedly based on the Husband's oversight and the Wife did not have any opportunity to respond to this.

42 On a separate note, the Wife submitted that after factoring in the Husband's high monthly expenses, he had still failed to account for how the pool of MAs was depleted by $287,954.64 from 31 July 2016 to 31 March 2017, namely from the bank accounts in his sole name. I note that the parties had agreed to take the bank account balances as at 31 March 2017, and that the Husband's monthly expenses were high, being at least $72,000. Under these circumstances, I did not add this sum into the pool of MAs.

(2) Eight NTUC Income policies

43 The Husband submitted that his eight NTUC Income policies did not have surrender values. He made reference to a document from NTUC Income which provided the details of these policies. I therefore attributed no value to the Husband's eight NTUC Income policies.

The marriage certificate

44 The parties disagreed on whether the marriage certificate is a MA. The marriage certificate is presently in the Husband's possession.

45 The Wife submitted that the marriage certificate is a MA under s 112(10)(*b*) of the Charter because it is an asset acquired during the marriage. She sought to have the marriage certificate awarded to her in the division of MAs, because she submitted that receiving it would assist her in her recovery from the trauma of the failed marriage. Dr [A], a consultant psychiatrist who examined the Wife, assessed her on 8 April 2017 to be suffering from Post-traumatic Stress Disorder. The Wife clarified that she had no intention of destroying the marriage certificate, but merely wished to retain it in her possession.

46 The Husband submitted that the marriage certificate is not a MA. He suggested that the Wife may want the marriage certificate only to destroy it. He submitted that no order should be made on the Wife's request for the marriage certificate.

47 The marriage certificate is not a MA and I made no orders on it. This marriage has already been terminated by a judgment of divorce; the marriage certificate issued in the first place as proof of the marriage no longer serves its purpose. It proved that the parties were married, but the subsequent court order had dissolved this marriage. In any case, a marriage certificate is not a matrimonial asset to be divided. This matter on the marriage certificate should not be a cause for further acrimony between the parties.

Liabilities with disputed values

48 The parties *agreed* on the following matrimonial liabilities but *disputed* their values, set out as follows:

Liabilities	Husband's Value (S$)	Wife's Value (S$)
In Wife's Name		
Income tax for 2017		59,904.50
Rental for Wife's accommodation		2,900.00 (monthly)
In Husband's Name		
Rental for Pebble property		60,000.00

Liabilities in Wife's name

(1) Income tax for 2017

49 The Wife submitted that her income tax liability for 2017 was $59,904.50. She submitted that although she was not receiving any rental income from the jointly-owned properties, her income tax assessment for 2017 included such rental income as her assessable income. She pointed out that she was paying off her outstanding income tax in instalments.

50 The Husband made no submission on this head of liability.

51 From the Wife's Notice of Assessment dated 8 May 2017, the sum of $59,904.50 was in fact that assessed to be her income from "Property". Her tax payable for 2017 was instead $1,512.66.

52 I accepted that the Wife's income tax for 2017 was $1,512.66.

(2) Rental for Wife's accommodation

53 The Wife submitted that the monthly rental for her accommodation is $2,900, which she began to incur from 1 May 2017. She did not submit her total liability from the rental. The Husband made no submission on this head of liability.

54 The parties had generally valued their immovable properties in the time period of March 2017 to May 2017. Further rental liability, if any, after May 2017 were therefore not considered in the net value of the pool of MAs.

55 As such, I find that the Wife's liability for her rental is $2,900.

Liabilities in Husband's name: rental for Pebble property

56 As I explained at [8] above, the rental deposit of the Pebble property is not a matrimonial "liability", insofar as it does not reduce the net value of the pool of MAs. The same applies to alleged rental arrears in relation to this property, which the Husband should account for as the circumstances warrant.

57 The Wife submitted that the Husband was liable for rental arrears of $10,000 and rental of $50,000 for the remaining unexpired term of tenancy for the Pebble property. In relation to the rental

arrears, the Wife submitted that the Husband had failed to collect from the tenant two months of rental at $5,000 per month. In relation to the rental for the unexpired tenancy term, the Wife submitted that the tenant had vacated the premises prematurely in December 2016, when the tenancy agreement was due to expire on 30 September 2017.

58 The Husband made no submission in response.

59 The Wife's assertion was not that the Husband had received rental moneys and not accounted for them. Rather, it was that the Husband had not been acting responsibly and conscientiously and had thus failed to collect the alleged rents due and to obtain another tenant within a reasonable period of time. Such claims do not justify including the alleged sums as part of the Husband's assets to be included into the pool.

Total pool of Matrimonial assets

60 Given my findings above on the values of the various assets, the net value of the pool of MAs liable for division was $21,303,422.66. Listing only the assets and liabilities with some value, they were as follows:

	Asset	**Net Value ($)**
Joint Names	Net sale proceeds from Hua Guan Crescent property	2,231,634.19
	Net sale proceeds from Punggol Crescent property	725,392.16
	Pebble property	2,379,117.31
	Cairnhill Rise property	2,476,034.42
	DBS account -8400	6,588.57
	DBS account -3563	12,312.57
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	Citibank account -2005	335.47
	OCBC account	11,434.03
	Toh Crescent property	3,705,186.13
	Upper Bedok property	1,808,029.71
	Loan to Mr [T]	54,800.00
	Sub-total for net value of assets in joint names	**13,429,552.30**
Wife's Name	POSB account -0033	165,319.10
	CPF Gold Savings	5,600.00

	DBS Supplementary Retirement Scheme account	153,894.70
	Citibank account -0476	1.12
	Citibank account -0560	148.57
	Central Depository (Pte) Ltd account	161.94
	CPF Medisave Account	28,925.03
	CPF Special Account	3,675.44
	CPF Retirement Account	84,214.93
	Cash sum	3,000,000.00
	CPF Ordinary Account	17,862.24
	Motor car	71,156.50
	(Income tax for 2017)	– 1,512.66
	(Rental for Wife's accommodation)	– 2,900.00
	Sub-total for net value of assets in Wife's name	**3,526,546.91**
Husband's Name	CPF Ordinary Account	111,787.27
	CPF Special Account	27,062.52
	CPF Medisave Account	47,635.70
	CPF Retirement Account	169,794.70
	Citibank account -5902	83,068.77
	DBS account -2416	3,499.35
	DBS account -9146	10,528.61
	DBS account -5736	4,340.92
	DBS Supplementary Retirement Scheme account	113,567.89
	UOB account	477,625.08
	HSBC account	17,920.15
	Central Depository (Pte) Ltd account	353,112.18
	HSBC bond	242,810.00
	Shares in Supplementary Retirement Scheme account	47,655.11
	Sale proceeds from [X] Country Club membership	16,515.20

	Tenancy deposit Upper Bedok property	10,400.00
	Tenancy deposit for Pebble property	10,000.00
	BOC account	200,000.00
	Cash withdrawn from Husband's UOB account	2,400,000.00
	Sub-total for net value of assets in Husband's name	**4,347,323.45**
Total Pool	**Grand Total**	**21,303,422.66**

Proportions of division

61 The Wife submitted that the parties' marriage was a dual-income one since she worked full-time for more than half the duration of the marriage. Both parties submitted that the structured approach outlined in *ANJ v ANK* [2015] 4 SLR 1043 ("*ANJ*") should be used to determine the just and equitable division of the pool of MAs.

62 The parties' marriage lasted from 1987 to 2016. The Wife stopped working in 2006 and assumed the role of a homemaker for around the last ten years of the marriage. Thus she worked for around 19 years of the 29-year marriage. I accepted that the parties' marriage cannot be characterised as a "Single-Income Marriage", where a spouse is primarily the breadwinner and the other is primarily the homemaker: *TNL v TNK and another appeal and another matter* [2017] 1 SLR 609 ("*TNL*") at [43] and *UBM v UBN* [2017] 4 SLR 921 ("*UBM*") at [50]. The Court of Appeal held in *TNL* (at [46]) that the *ANJ* structured approach was not applicable to Single-Income Marriages, but remained applicable to Dual-Income Marriages. As the present marriage cannot be classified as a Single-Income Marriage, the *ANJ* structured approach was applicable here.

63 It is however important to note that assessing the parties' *direct* and *indirect* contributions are *steps* in the court's exercise of discretion; the parties' contributions alone do not determine the ultimate proportions of division. The *ANJ* structured approach is a "broad brush" one where the average ratio reached serves as an indicative guide for a just and equitable division of the pool of MAs. I also note at the outset that the parties' marriage was long, spanning nearly 29 years.

Direct contributions

64 The Husband submitted that the ratio of their direct contributions is 87.2% to 12.8% in his favour. The Wife submitted that their direct contributions were equal.

65 The Wife submitted that she worked full-time for 16 years from 1987 to 2003, part-time for three years until 2006, and, after she had stopped working in 2006, was a homemaker for the last ten years of the marriage. She pointed out that her income was generally higher than the Husband's earlier in the marriage, from 1987 to 2002. Her highest annual income in this period was over $238,000 (*ie*, an average monthly income of around $20,000) in 2002. The Wife submitted that her employment income was over $1,950,000 over 24 years (*ie*, an average monthly income of around $7,000).

66 The Wife further argued that even when she was a homemaker, she also made significant financial contributions through her investments in shares and properties held in her sole name. This included eight years' worth of rental income totalling around $980,000 from three properties in her sole name, and the net sale proceeds of another six properties of around $1,300,000.

67 The Wife submitted that on a broad brush approach, the parties' direct contributions are equal. She argued that it is "impossible" to ascertain her exact contributions to the MAs otherwise. First, the Wife pointed out that throughout the course of the parties' marriage, she deposited all her earnings into their joint accounts. These earnings included the income from her employment, the rental of the properties she had purchased in her sole name, and her investments. The Wife acknowledged that the Husband had also contributed to the joint accounts and the parties' moneys were comingled in a common pool, from which payments for properties were made too. Second, the Wife also submitted that her financial contributions during the early years of the marriage provided the "seed money" for the parties to multiply their savings and investments and build up their wealth. She thus highlighted that the income approach (which the Husband submitted was appropriate) was inadequate for determining the parties' direct contributions.

68 The Husband submitted that the ratio of the parties' direct contributions can be approximated from the ratio of their total income for the duration of the marriage, *ie*, 87.2% to 12.8% in his favour. He highlighted that from 2006 to 2015 when the Wife stopped working, his total salary was around $15,400,000 (*ie*, an average income of around $1,540,000 annually and $128,000 monthly). This constituted a large part of the parties' total income throughout the marriage. The Husband advocated for this income approach because he agreed that it would be difficult to gather all the documentary evidence to trace the direct contributions over the course of this long marriage, where he submitted that the parties have owned at least nine real properties.

69 I had difficulty with both parties' submissions. Both parties were unable to and did not provide an actual estimate of their direct contributions to the various MAs. But this is understandable because "parties to a functioning marriage do not keep records of their transactions with a view to building a case should a divorce occur" and it is "thus reasonable to expect gaps in the evidence, especially in the case of a long marriage, given that not every document will be archived": *TXW v TXX* [2017] 4 SLR 799 at [46].

70 However, the Wife's submission that the parties' direct contributions were equal failed to recognise the fact that the Husband's income from 2006 onwards was much higher than both parties' combined income prior to 2006. Although the Wife may generally have had a higher income than the Husband earlier in the marriage, from 1987 to 2002, her average monthly income was around $7,000. The Husband however had an average monthly income of around $128,000 for ten years.

71 On the other hand, the Husband's submitted income approach was inadequate, as he did not support his submitted ratio with relevant calculations. I was unable to check the accuracy of his submission. The Wife also submitted that not all the documents evidencing the parties' income over the years were available. Further, the Husband's submission failed to give weight to the Wife's submission that her financial contributions earlier in the marriage provided the "seed money" for them to acquire MAs.

72 With these inadequacies in both parties' submissions and evidence, I did not accept their submitted ratios of the direct contributions to be reasonable estimates.

73 Applying the broad brush structured approach in *ANJ*, I found that the ratio of the parties' direct contributions to the marriage is 75% to 25% in the Husband's favour. The Court of Appeal held in *ANJ* (at [23]) that "[e]ven in respect of direct financial contributions of the parties, … [i]n a case where the documentary evidence falls short of establishing exactly who made what contribution and/or the exact amount of monetary contribution made by each party, the court must make a "rough and ready approximation" of the figures". The Husband's total salary from the time the Wife stopped working overshadowed the parties' total income when they were both working from 1987 to 2006.

Even taking the parties' total monthly income to be $40,000 from 1987 to 2006 (*ie*, double the Wife's monthly income in 2002), the Husband's monthly income from 2006 to 2015 was at least three times that figure, being at $128,000.

Indirect contributions

74 The Wife submitted that the ratio of the parties' indirect contributions to the marriage should be 10% to 90% in her favour. The Husband asserted that it ought to be 35% to 65% in the Wife's favour.

75 The Wife submitted that her indirect financial contributions were significant because she contributed her savings from before the marriage and her earnings throughout the marriage to the parties' joint accounts, from which the family expenses were paid. She submitted that her indirect non-financial contributions were very substantial because, throughout the marriage, she was the main caregiver of the children and she singlehandedly managed the family expenses. The Wife also took a year of unpaid leave to follow the Husband to Vancouver, Canada for his employment. She later gave up her career and assumed the role of a homemaker for around the last ten years of the marriage. The Wife also cared for the Husband's aged parents with medical problems. She submitted as her indirect contributions her time and effort in managing the family investments and assets too.

76 The Wife also submitted on the Husband's lack of contributions and how he was an absent husband and father, being often busy at work. She further alleged that he verbally, emotionally and sexually abused her during the marriage and had multiple affairs, causing her psychological and physical health to suffer, where, *inter alia*, she contracted herpes and was diagnosed with Post-traumatic Stress Disorder. She thus argued that the Husband's share of the pool of MAs should be given at least a 5% discount.

77 The Husband accepted that the Wife made substantial indirect contributions, but disagreed with her submitted ratio for the indirect contributions. He submitted that the indirect financial contributions were mainly provided by him particularly after 2006, where substantial costs were incurred for the children's tertiary education. He argued that he had also sourced for and contributed to the family investments. The Husband also submitted on his non-financial contributions to the family, such as his involvement in the children's educational matters and the joint decisions made with the Wife on many matters. He submitted that the family had many overseas family vacations throughout the course of the marriage. On the other hand, he argued that when the Wife worked from 1987 to 2006, she had significant assistance in caring for the two young children then.

78 The parties agreed that the Wife's indirect contributions to the marriage were substantially greater than the Husband's. I was mindful not to double-count both parties' financial contributions to the marriage under their indirect financial contributions where the relevant matters had already been considered under their direct contributions. When assessing the parties' direct contributions, I considered the Wife's financial contributions through her investments and properties and the Husband's very high income in the later part of the marriage.

79 The Wife was the homemaker spouse for ten years who managed the family expenses. She was the main caregiver of the children. She also relocated with the Husband for his employment. I also took into account the Wife's arguments that showed that the Husband made less indirect contributions to the marriage. The parties nevertheless shared a long marriage of 29 years, in which the family had many overseas family vacations throughout the course of the marriage.

80 I found that the ratio of the parties' indirect contributions to the marriage to be 25% to 75% in

the Wife's favour.

Average ratio

81 Applying the structured approach set out in *ANJ*, the parties' direct and indirect contributions to the marriage are set out in the following table:

	Husband (%)	**Wife (%)**
Direct contributions	75	25
Indirect contributions	25	75
Average ratio	50	50

82 The Husband submitted, based on his submitted ratios (which are different from those I have arrived at above), that the average of the ratios for the direct and indirect contributions should be used as the final division ratio. He also argued that the division ratio should follow the past trends for division orders.

83 The Wife submitted that the parties' *direct* and *indirect* contributions should be given a 20% and 80% *weightage* respectively. She submitted that the court should consider that the parties had a long marriage in which the Wife made career sacrifices, that the Husband and his mother had been enjoying rent-free occupation of the matrimonial home from the time the Wife left it (more than two years ago), and that the Husband had not made full and frank disclosure of the MAs. The Wife also argued that the Husband's misconduct (such as his multiple affairs) caused her to contract herpes and Post-traumatic Stress Disorder, and so there should be a discount of his contributions.

84 The Wife further submitted that she required money to purchase in full a landed property for her accommodation, and to buy a new car in the future to replace her present one. She argued that she was living in a landed property and was thus entitled to buy one to live in for the rest of her life. Because she was not employed, she submitted that she would be unable to take a bank loan. The Wife also highlighted that she has been used to driving a car throughout the parties' marriage.

85 I was of the view that in this case of a long marriage, the average ratio of an equal division would be just and equitable. An equal division order follows the trend that the courts incline towards in cases of long marriages with children: see *UBM* at [66].

86 In summary, the net value of the total pool of MAs was $21,303,422.66. The Husband and the Wife were each entitled to 50% of the pool of MAs, which worked out to $10,651,711.33. I note that both parties are retired and also capable of generating income through investments if they wish to do so.

Observations on the approach and exercise of discretion in s 112

87 I stated at the outset that the *ANJ* structured approach was applicable here because this marriage cannot be characterised as a "Single-Income Marriage": see [62] above. The Court of Appeal in *TNL* held at [42] and [46] that the *ANJ* structured approach should continue to be used for Dual-Income Marriages, but should not be applied to Single-Income Marriages.

88 While I have applied the *ANJ* structured approach, the complexity of assessing the direct

contributions in this case inevitably involved a measure of artificiality that may not normally be envisioned in the structured approach. I had some difficulty in this present case in determining the ratio for the parties' direct contributions to the marriage. There were two main reasons for this.

89 First, the parties had a *long marriage* which made it evidentially difficult to assess their direct contributions. I was not surprised at the complexity involved in achieving even a reasonable assessment of their direct contributions, much less a mathematically accurate one. The parties had shared a long 29-year marriage where their moneys were comingled in a common pool, from which payments for MAs were made too. I would not expect a married couple to have kept detailed records of their fund transfers over the entire course of their long marriage. The parties here had bought and sold multiple real properties and investments during the marriage.

90 Second, while the parties did not have what is classified as a *Single-Income Marriage*, this was not quite a fully Dual-Income Marriage, because the Wife worked for around 19 years and stopped working for the last ten years of the marriage. This compounded the difficulties in determining the ratio for the direct contributions, where due consideration had to be given to the fact that the Wife's employment income could have provided the "seed money" for the parties to acquire MAs even when she stopped working.

91 Where the step of assessing the direct contributions is usually more mathematical since direct contributions can be calculable to a certain extent, this was not the case here. The Wife herself submitted that a broad brush approach should be taken in assessing the direct contributions. Where the parties' submitted ratios for the direct contributions were not reasonable estimates and their submissions could not assist me further, I had to assess their direct contributions in a broad brush manner. Even as the *ANJ* structured approach continues to apply to Dual-Income Marriages, the court must be mindful of the Court of Appeal's view in *TNL* that the approach is not intended to involve "hard and fast rules" especially in the light of exceptional situations: *UBM* at [58]. Instead, the approach should be "embraced as a useful guide to be exercised within a broad brush approach": *UBM* at [58].

92 The proportions of division that I have reached is in my view, just and equitable. The division of MAs is founded on the ideology of marriage as an "equal co-operative partnership of efforts": *NK v NL* [2007] 3 SLR(R) 743 at [20]; see also *TNL* at [45]. I had remarked in *UBM* that given that in long Single-Income Marriages, the precedents show that the courts incline towards an equal division of the MAs, "there is little reason not to also incline towards equality in long Dual-Income Marriages": *UBM* at [66].

93 In *UBM*, I explained at [49] why a "Single-Income Marriage" should encompass a marriage where a spouse is primarily the breadwinner and the other is primarily the homemaker:

> … I do not think the Court of Appeal 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, applying the structured approach in [*ANJ*] only in the former situation while excluding it in the latter. To do so may place a full-time homemaker (who has not worked at all during marriage) in a better position than a homemaker who also worked but brought far less income into the marriage than the main breadwinner. This is because the former may obtain near equal division of the assets following [*TNL*], while the latter may obtain substantially less than that share if [*ANJ*] is applied to her (or his) case and her direct contributions are very low.

94 In the case of *long marriages* in general, there is little reason why a full-time homemaker

spouse should generally be in a better position than a spouse who worked but brought far less income into the marriage than the other spouse, particularly in facts such as the present, where the Wife performed the role of the homemaker in a single income marriage for about a decade in the marriage.

95 The impetus for the Court of Appeal in *TNL* to hold that the *ANJ* structured approach should not apply to Single-Income Marriages was its mandate to divide the pool of MAs in a just and equitable manner. The structured approach "tends to unduly favour the working spouse over the non-working spouse", where financial contributions are recognised as both the direct and indirect contributions of the parties: *TNL* at [44]. The Court of Appeal therefore reiterated at [46] that the principles enunciated in *ANJ* are neither "necessarily exhaustive" nor "hard and fast rules that must immutably be applied even to cases of exceptional facts". It chose to exclude Single-Income Marriages from the *ANJ* structured approach's scope of application, instead of incorporating "some degree of artificiality" in trying to apply the approach to those marriages: *TNL* at [45].

96 The present case demonstrates the difficulties in requiring parties to ascertain their *direct* contributions in their marriage and weigh them against each other. First, an inordinate amount of time and energy was focused on quantifying parties' direct contributions and translating them into a ratio, required for the first step in the structured approach. This exercise proved to be tedious because of the lack of evidence, which is not surprising as married parties typically do not keep financial records with a view to collecting evidence for a future divorce. Second, substantial resources were used in the process of ascertaining direct contributions – these include lengthy submissions and meticulous calculations of sums made by each party towards the various assets in the course of a marriage. Time and costs were expended on this tedious process only to reach the first step in the *ANJ* approach. Here, the hearing before me took place some 20 months after IJ was granted, as parties took out various interlocutory applications such as discovery and interrogatories against each other during that period. Remarkably, no fewer than 41 affidavits were filed. I pause here to point out that the exercise of ascertaining direct financial contributions is a step used not only in the structured approach, but had also been used in the years prior to *ANJ* in the now outdated "uplift' approach: see *ANJ* at [18].

97 The process in the next step of assigning ratios for *indirect* contributions allows parties to present their own alleged contributions in the best light and play down that of the other spouse or even allege misconduct by the other spouse. Room for amicable resolution is decreased when the process incentivises parties to focus on the failures of the other party in order to lower that party's indirect contributions to the marriage.

98 Law reform may be necessary to strengthen the principles and predictability in this area of law, so that spouses do not feel compelled to compare their contributions and make allegations in a way that grates against the aspirations of the family justice system to enable the harmonious resolution of family disputes.

Consequential orders sought by the Wife

99 Given that I had found that an equal division would be just and equitable, I did not accept the Wife's proposed consequential orders of dividing the various MAs according to their respective division proportions. She generally sought a 60% division for many classes of MAs, but an at least 90% share of the sale proceeds of the investments in her sole name. I did not find that different division orders with differing division proportions for each type of MA was appropriate. There is also no merit in arguing that a spouse made no contribution towards the acquisition of a particular asset – s 112(10)(*b*) of the Charter provides that an asset is a MA as long as one spouse acquires it during the marriage (not by gift or inheritance), whether or not the other spouse made contributions towards the acquisition.

100 Further, some of the assets which the Wife sought consequential orders for division were not submitted as items to be included in the pool of MAs; they were not listed as such in the joint summary. Apart from the joint summary, which is the summary of the parties' latest submissions on their respective positions, no other items were considered for inclusion in the pool of MAs. Nevertheless, I make a brief note on why these other assets are not considered MAs.

101 The Wife claimed that the sum of $702,614.46 out of the parties' loan to Mr [N] from 2009 to 2012 had yet to be repaid into the parties' joint accounts. She thus sought payment by the Husband of a portion of this alleged unpaid loan. The Wife herself accepted that Mr [N] repaid a sum of at least $450,000 to the Husband, even if it was not repaid into the parties' joint accounts. Mr [N]'s repaid sum would have constituted a part of the assets in the Husband's name which he had acquired. I note that Mr [N] had passed away and it was not submitted or shown that either party could claim back any further loans from him. The sum of $702,614.46 should not be included in the pool of MAs. As with the loan to Mr [N], I did not consider as a MA the sum of $58,000 the Wife claimed that the parties lent Mr [Z] in 2011, which has yet to be repaid into the parties' joint accounts.

102 The sum of $738,023.15 the Wife claimed, being the total sum of seven withdrawals from 2007 to 2008 from one of the parties' joint accounts, was not added into the pool of MAs. These alleged withdrawals were made eight years before the grant of the IJ and had been ordinarily used during the parties' marriage.

103 The Wife also submitted that although the Husband had agreed to sell the jointly-owned properties since 2015, he wilfully obstructed their sale and this resulted in many missed opportunities for their sale at higher profits or for rent. The Wife thus sought payment of 60% of the value of the loss of profits and potential rental income. The Wife also made claims on the interest paid on the mortgage instalments and for the maintenance charges, which she submitted was an unnecessary depletion of the pool of MAs. These claims were not allowed. It had not been shown that the Husband was obliged to sell or rent the jointly-owned properties prior to the division order.

104 The Wife's claim for the rental income of $119,600 for the Upper Bedok property was not listed in the joint summary (except by way of her submissions for the consequential orders), unlike the rental for the Pebble property which was listed as a liability (see [48] above). This claim was not allowed.

105 On the other hand, I granted the Wife's request that the Husband return her personal photographs and photograph album in the matrimonial home.

Maintenance

Wife

106 Both parties agreed that there would be no maintenance for the Wife.

Children

107 The parties' two adult children are presently pursuing their university degrees: their daughter is in her fourth year of tertiary education in Australia, and their son is in his second year of tertiary studies in Singapore.

108 The Husband submitted that both parties were under an obligation to maintain their children.

He argued that a lump sum should be deducted from the pool of MAs to provide for the children's education costs before dividing the pool between the parties, because both parties are retired and do not have an ongoing stream of income. The Husband submitted that their daughter's annual expenses would be around $150,000 ($12,500 monthly) and their son's would be around $60,000 ($5,000 monthly).

109 The Wife submitted that under s 127 of the Charter, read with s 69(3), the parties' two children who are above 21 years old would have to personally make the application for their maintenance. Neither the Husband nor the Wife could apply for the children's maintenance on their behalf. In the alternative, the Wife submitted that the Husband should maintain the children solely, and that she is unable to provide any maintenance for them out of her share of the pool of MAs. She argued that the Husband is more financially capable of providing maintenance for the children and she requires her share of the MAs to support herself. The Wife submitted that their daughter's annual expenses would be around $82,000 ($6,800 monthly) and their son's around $38,000 ($3,200 monthly).

110 Each party's equal share from the division order is over $10.5m, there should be little reason why both parties cannot provide for their children. The parties should have their children's best interests at the forefront of their considerations, and agree on how to provide for their children. I note that the Wife is willing to deposit $100,036.35 out of her share of the pool of MAs into the children's bank accounts.

111 I made no order for the maintenance of the children. If the parties are unable to work out how to provide for their children, the two adult children can make an application for maintenance. This course is clearly not desirable; indeed it would be terribly disappointing if these children, though adults, should have to litigate to obtain maintenance from their parents. The parties should work cooperatively to support their children who are near financial independence.

Conclusion

112 For the above reasons, I found it just and equitable for the pool of MAs to be divided equally, and made no order for maintenance.

113 After I released my decision to the parties, I left it to them to work out the consequential orders for the division of assets. Unfortunately, they were unable to agree. The Wife complained about the "substantial" cost of repairs of the Pebble property, and the burden of financing the monthly loan instalments of the Cairnhill Rise and Pebble properties. She also asserted that it would be difficult to sell the Cairnhill Rise property. There was also some disagreement between parties over the time period and procedure for sale of the properties.

114 After considering both parties' views, I made the following orders:

(a) The Husband and the Wife are each entitled to 50% of the pool of matrimonial assets.

(b) The Husband shall return the Wife her personal photographs and photograph album in the Toh Crescent property.

(c) The parties shall retain their assets and liabilities in their own names.

(d) The Wife shall retain the net sale proceeds from the Hua Guan Crescent property and the Punggol Crescent property, which shall be paid to her within one week from the date of this

order.

(e) The Pebble property, the Cairnhill Rise property, the Toh Crescent property and the Upper Bedok property shall be sold in the open market at or above their gross values as used in the Judgment, within six months from the date of this order. Alternatively, the properties shall be sold to the highest offerors. There shall be joint conduct of the sale of the properties. The net sale proceeds of the properties after repaying the outstanding mortgage loans, interests, costs and expenses relating to the sale, including any agent's commission and cost of repairs, shall be divided equally between the parties.

(f) The Husband shall retain the remaining assets jointly held by the parties.

(g) The Wife shall pay the Husband in cash the balance amount for his remaining share of the pool of matrimonial assets, as calculated using the values used for the matrimonial assets at [60] of the Judgment.

(h) The parties shall bear their own costs.

(i) The parties shall have liberty to apply.