IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2024] SGHCF 25

District Court Appeal No 7 of 2024

Between

WUI

… *Appellant*

And

WUJ

… *Respondent*

JUDGMENT

[Family Law — Matrimonial assets — Division]

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v
WUJ

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General Division of the High Court (Family Division) — District Court Appeal No 7 of 2024
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23 May 2024

10 July 2024 Judgment reserved.

Mohamed Faizal JC:

Introduction

1 It has been suggested by a leading commentator of Singapore matrimonial law that the "law of division of matrimonial assets [represents] one of the finest areas within the family law in Singapore": Leong Wai Kum, *Elements of Family Law in Singapore* (LexisNexis, 3rd Ed, 2018) ("*Elements of Family Law in Singapore*") at para 15.032. She grounds this conclusion on the back of the various strands of "spectacular [jurisprudential] developments" emanating from the Singapore courts in the past decade (*Elements of Family Law in Singapore* at para 15.075) – judicial decisions which have, collectively, fundamentally reshaped our understanding of the principles underlying the division of matrimonial properties and which has allowed us to take many big

strides forward to give voice to the matrimonial ideals of collective enterprise and joint partnership.

2 Indeed, it is fair to say that the law of division of matrimonial assets has significantly matured in recent times. The decision of *ANJ v ANK* [2015] 4 SLR 1043 ("*ANJ*"), in particular, has not only birthed a new overarching framework on division of matrimonial assets, but also precipitated the development of various complementary frameworks that seek to achieve broad justice in dividing assets accrued from different forms of marriages (see for instance *TNL v TNK and another appeal and another matter* [2017] 1 SLR 609 ("*TNL v TNK*") at [44] and [45], which highlighted the limitations of the *ANJ* framework in single-income marriages). At the same time, some of the older judicial philosophies on the division of such assets have endured the test of time and have been integrated into these revised analytical models. One of these is the idea that when dividing matrimonial assets for "short marriages", the parties' indirect contributions should carry little to no weight relative to the parties' direct financial contributions. This is yet another variation of the *ANJ* framework, and one that sits at the very heart of this case.

3 It is important, at the outset, to underscore the fact that underlying such "spectacular developments" is the desire on the part of the courts to be equipped with all the necessary tools to achieve broad justice *on the facts of each case* when dealing with the vexing issue of division of matrimonial assets so as to facilitate outcomes which are, as s 112 of the Women's Charter 1961 (2020 Rev Ed) ("Women's Charter") mandates, "just and equitable". No two cases are exactly the same, and the various strands of jurisprudence as alluded to in the previous paragraph represents an acknowledgment of the need for sufficiently variegated models and frameworks for the courts to do justice on the facts that

present before them. However, amidst such diversity of frameworks and mental models, the necessity for conceptual clarity of *when* each of these models should apply, and *how* they ought to be applied, becomes paramount. Establishing guiding principles surrounding the use of the various models that have been developed over the years ensures a certain level of consistency, maximises the prospect of principled decisions, and serves as a bulwark against arbitrary or unjust outcomes. While each judgment must ultimately be informed by the facts of the case, it must nonetheless also remain steadfastly anchored in principle.

4 This case raises numerous interesting conceptual questions of how some of these jurisprudential approaches ought to be applied and the dangers of placing undue reliance on shorthand labels primarily intended to serve as heuristic tools when dealing with the division of matrimonial assets. It also interrogates how the frameworks developed hitherto ought to be applied for the purposes of dividing assets between partners in a double-income, no kids partnership (sometimes referred to as "DINKs") upon dissolution of their marriage, and the need to take especial care when applying the *ANJ* model in such instances in order to achieve broad justice on the facts of the case.

Background facts

5 In order to understand how the issues referred to in the preceding paragraph arise, it would be useful to first set out the background to this matter.

6 The appellant ("the Wife") and the respondent ("the Husband") were married on 15 October 2011. This was a childless marriage. The parties owned a matrimonial HDB flat, which was purchased just before the marriage, but did not reside in it. Instead, they lived with the Husband's parents in the latter's house. They also agreed that the Wife's parents would live in the matrimonial

HDB flat in return for a monthly rental fee.[1] The parties subsequently sold this matrimonial flat sometime in 2018.[2]

7 When the parties lived at the Husband's parents' house, there were helpers who took care of cleaning the house and cooking for those in the household, including the parties and the Husband's parents.[3]

8 The parties did not appear to have an especially close relationship during the marriage, though they, perhaps unsurprisingly, differ as to the underlying reasons for this. According to the Wife, the Husband would often spend time pursuing his own interests and thereby neglect her, which the Wife says caused the parties to drift apart for years.[4] She also alleges that the parties did not have any form of sexual relations "save for sporadic sex" for almost the entire duration of the marriage – she claimed that such conjugal relations were undertaken simply "to get it out of the way" rather than out of love.[5] The Husband, on his part, claimed that the Wife started an affair sometime in 2012, just a year into the marriage.[6] According to him, the Wife and her boyfriend would meet in hotels and travel together on the pretext of business trips.[7] He alleges that the lack of meaningful interaction between the parties was because the Wife chose to spend her free time with other people.[8]

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1 Husband's Family Court submissions at para 57.

2 Wife's Family Court submissions at para 21.

3 Husband's 1st Affidavit of Assets and Means at para 16(B)(vii); Wife's Family Court submissions at para 77; Husband's Family Court submissions at paras 27, 31 and 34.

4 Statement of Particulars (Amendment No 1) at para 1(d).

5 Statement of Particulars (Amendment No 1) at para 1(m).

6 Husband's Family Court submissions at para 37.

7 Husband's Family Court submissions at para 32.

8 Husband's Family Court submissions at para 33.

9 The Wife moved out of the Husband's family home sometime in November 2020.[9] The parties again proffered differing explanations for this. The Wife contends that she "sought solace in a male friend, as a friend", and had told the Husband about it.[10] She alleges that the Husband then sought to work on the marriage, but she felt that he did not do enough, which made her continue to feel unloved. She found his behaviour intolerable and moved out to reside with her parents.[11] On the other hand, the Husband claims that he told her to leave as he suspected that she was having a new affair.[12]

10 The divorce proceedings commenced on 24 March 2022, and interim judgment was granted on 14 June 2022. The parties thus, factually speaking, lived together for around nine years, though the official length of the marriage (as book-ended by the start of the marriage and the date of the interim judgment) was around ten and a half years. I note that the judge below ("the DJ") found that the parties had lived together for eight and a half years. Since a difference of half a year is minimal, I will use eight and a half years as a reference point.

Proceedings in the court below

11 Broadly, the DJ found that the matrimonial assets had amounted to a value of S$3,203,309.10. Of this, he found that the Wife had contributed S$213,773.28 and the Husband had contributed S$2,989,535.82. The percentage of direct financial contributions for the Wife and Husband thus amounted to 6.67% and 93.33% respectively.

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9 Husband's Family Court submissions at para 5; Wife's Family Court submissions at para 67.

10 Statement of Particulars (Amendment No 1) at para 1(g).

11 Statement of Particulars (Amendment No 1) at para 1(g).

12 Husband's 1st Affidavit of Assets and Means at para 17(i).

12 The breakdown of the matrimonial assets is shown in this table:

Assets in Wife's Name	**Value (S$)**	**Wife's Contribution (S$)**	**Husband's Contribution (S$)**	**Comments**
CPF Ordinary Account	2,624.85	2,624.85	0	
CPF Special Account	34,827.95	34,827.95	0	
CPF Medisave Account	25,868.70	25,868.70	0	
Amount withdrawn for the purchase of the Bedok Flat	139,990.15	139,990.15	0	
POSB Account No. XXX-XXX-232	703.00	703.00	0	
Subtotal	204,014.65	204,014.65	0	
Assets in Husband's Name	**Value (S$)**	**Wife's Contribution (S$)**	**Husband's Contribution (S$)**	**Comments**
POSB Account No. XXX-XXX04-2	121,805.50	9,758.63	112,046.87	9,758.63 is the share of the matrimonial flat's proceeds attributable to the Wife
DBS Account No. XXXXXXX93-6	3,591.34	0	3,591.34	
Alpha Express Global Pte Ltd	10,674	0	10,674	

Riverfront Flat	388,749.10	0	388,749.10	
AIA Policy No. LXXXXXX110	10,520.46	0	10,520.46	
Tiger Trade	1,983.74	0	1,983.74	USD 1,480.40 (1USD to 1.34 SGD)
Endowus Account	1,198.47	0	1,198.47	
CPF Ordinary Account	12,863.60	0	12,863.60	
CPF Special Account	48,586.10	0	48,586.10	
CPF Medisave Account	66,000.00	0	66,000.00	
Commission from the Sale of [Company A]	2,333,322.14	0	2,333,322.14	
Total (assets in Wife's and Husband's names)	**3,203,309.10**	**213,773.28**	**2,989,535.82**	

13 It is useful to set out the background relating to the acquisition of some of these assets so as to properly contextualise the parties' contentions on appeal.

Commission from the sale of [Company A]

14 It would be immediately apparent that an outsized proportion of the value of the matrimonial assets lies in an ostensible "Commission from the Sale of [Company A]". The background of how this asset entered the matrimonial pool, at least based on the evidence before me, is as follows. In July 2020, the Husband deposited S$2,870,798.64 into his POSB bank account No. XXX-

XXX04-2. He retained S$50,000 and transferred the remaining amount of S$2,820.798.64 to one "[B]". In his IRAS Notice of Assessment 2021, he declared an annual income of S$2,578,000, thereby attracting a tax liability of S$537,476.50. The Husband alleges that he received the S$2,870,798.64 *on behalf of* a group of people who brokered the sale of [Company A]. He purportedly kept his share of the commission of S$50,000 and transferred the rest to the said "[B]", who distributed the commission amongst the other parties who assisted with coordinating the sale.[13] The Wife disbelieved the Husband's narrative in relation to such apparent income for the following reasons:[14]

(a) the Husband failed to provide a clear explanation as to the reasons and basis for his entitlement to any such commission;

(b) the Husband has not mentioned any qualifications, work or earnings as a licensed real estate broker that would entitle him to a commission of any properties associated with the company. Even if he was so qualified, such commission would conventionally be at a rate of 2% and not the 14.35% commission granted out of the sale of the entirety of the company to his purported "group";

(c) the Husband has no expertise in manufacturing or the maritime industry that may warrant his consultation services in this area; and

(d) there is no evidence of any agreement between this "group", no evidence of the existence of this "group", no evidence of what the "brokering" of the sale entailed, no sale agreement from the company,

13 Husband's 3rd Affidavit of Assets and Means at para 6.

14 Wife's Family Court submissions at paras 50–53.

> and no affidavits or documentary proof that the Husband was indeed holding the money on trust for any other parties.

The Wife thus argued that the sum of S$2,870,798.64 belongs solely to the Husband and it is therefore a matrimonial asset that is liable to being divided.[15]

15 The Husband's evidence in support of his claims of how such a transaction unfolded can be described as poor at best. He was only able to produce an undated letter entitled "Invoice", where he stated that all the commission was to be paid to him, without reference to anyone else:

> I, [Husband], hereby invoice the attention parties for the referral services rendered in regarded to [Company A] ("client").
>
> The invoice amount is $2,870,798.64 ("referral fee").
>
> Please make arrangement to pay this amount to my account, POSB Savings XXX-XXX04-2.
>
> With this full payment of the referral fee, I will discharge the attention parties [*sic*] from any obligations regarding the payment of the referral services.

16 During the hearing at first instance, the DJ noted that the Husband failed to disclose documentary proof of how much the company was sold for, the basis on which the commission was calculated, the identities of the other persons involved in the brokering of the sale, and a contemporaneous document or message between the relevant parties at the time of sale. This was despite the DJ having been very specific on the fact that he required these matters of the Husband.[16] The DJ thus quite rightly drew an adverse inference against the Husband and found that the Husband had been, contrary to his claims, fully entitled to the sum of S$2,870,798.64. The DJ similarly concluded that the

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15 Wife's Family Court submissions at para 56.

16 ROA Vol 1–2 at pp 14–15.

Husband likely dissipated this sum with the help of [B] and other individuals, who assisted to pay off his IRAS obligations of S$537,476.50. The DJ subtracted the latter amount from the former, and thus added S$2,333,322.14 into the matrimonial pool, attributing this sum fully to the Husband.[17] I note that the DJ's grounds of decision, he had recorded the Husband's commission as S$60,000 (as opposed to $50,000) and, consequently, the sum transferred to [B] as being the amount of S$2,830,798.64. However, since these differences did not affect the sum of S$2,870,798.64 which the Wife asked to be included in the matrimonial pool,[18] I do not propose to deal with this seeming disparity.

The proceeds from the matrimonial flat in the joint bank account

17 The parties shared a joint bank account, POSB Account No. XXX-XXX41-0 ("Joint Bank Account"). When the matrimonial flat was sold, the resulting amount of S$152,368.11 was deposited into this joint bank account. Since the matrimonial flat is a matrimonial asset, the proceeds of its sale are also subject to division. After deducting for agent's fees of S$19,620, the nett proceeds were S$132,748.11. The DJ found that the Wife had contributed S$52,369.13 (or 39.45%) to the matrimonial flat, while the Husband contributed S$80,378.98 (or 60.55%).

18 However, the Husband claimed that the Wife had withdrawn S$42,610.85 from the Joint Bank Account after the sale of the matrimonial flat. In her 2nd Affidavit of Assets and Means, the Wife did not deny this – she said that she withdrew S$15,000 for surgery for the parties' dogs and took the rest

17 ROA Vol 1–2 at pp 22–23.

18 Wife's Family Court submissions at para 14.

of the S$42,610.85 for her own use.[19] The DJ found that the Wife could not prove with documents her claim that she used S$15,000 for the parties' dogs' surgery. As for the Husband, he disclosed that he had withdrawn S$90,000 from the joint account.[20] The DJ found that the S$90,000 was traceable to the Husband's own bank accounts. The DJ thus ordered the Husband to pay the difference of S$52,369.13 (see [17] above) and S$42,601.50, which was S$9,758.63.[21] I note parenthetically that the DJ appears to have made a minor typographical error on this front, in that the sum utilised by the Wife was S$42,610.85 and not S$42,601.50. This error then also permeated into the calculations for the final sum of S$9,758.63. Nonetheless, I do not think it necessary nor constructive to quibble over a difference of S$9.35, and so I do not propose to make any changes to the figure of S$9,758.63.

The Riverfront Flat

19 The Riverfront Flat was the property that the Husband purchased *after* the Wife had moved out of his parents' house. The Husband submitted in the proceedings below that the Riverfront Flat (along with the Tiger Trade shares and EndowUs account) should be classified differently from the rest of the assets in that they should be divided solely according to direct contributions – *ie*, they would go to the Husband as he was the only person who contributed to them.[22] On the other hand, the Wife submitted that the Riverfront Flat was purchased before the interim judgment date and so it constituted a matrimonial asset. Also, she contended that in principle, she ought to be taken to have

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19 Wife's 2nd Affidavit of Assets and Means at para 18.

20 Husband's 1st Affidavit of Assets and Means at para 15(f).

21 ROA Vol 1–2 at p 20 at para 13.

22 Husband's Family Court submissions at paras 62–63.

contributed to the Riverfront Flat as it would be likely that the Husband used the S$90,000 from the proceeds of the matrimonial flat to buy the Riverfront Flat. The Wife thus contended that she holds a beneficial interest in the Riverfront Flat too.[23]

20 The DJ ultimately did not class the Riverfront Flat separately, as he opined that the monies used to acquire this property would have been accumulated from the marriage. However, the DJ attributed the value of the Riverfront Flat (for which the parties agreed that the net value was S$388,749.10) wholly to the Husband.

Indirect financial contributions

21 The DJ did not consider, or calculate, the indirect financial contributions of the parties, as he took the view that this was a short dual-income (childless) marriage and, following the guidance of the Court of Appeal in *Ong Boon Huat Samuel v Chan Mei Lan Kristine* [2007] 2 SLR(R) 729 ("*Samuel Ong*"), opined that division should be in accordance with the parties' direct financial contributions.

Maintenance and costs

22 The DJ further held that the Wife was not entitled to maintenance of S$1,500. However, as the parties accepted during the hearing before me, this holding appeared to be a *prima facie* error in so far as it was made based on the DJ's apparent misimpression that the Wife had, in fact, been seeking maintenance. This misimpression stemmed, it would seem, from the fact that

[23] Wife's Family Court submissions at paras 32–34.

the Wife had initially sought maintenance when she filed her papers, but eventually abdicated that request.

23 Lastly, the DJ awarded costs of S$3,000 against the Wife, because, in his words, she "had not succeeded in her application for spousal maintenance and for 48.6% of the matrimonial assets".[24] The DJ also took into account costs that had been reserved from previous case conferences.

Arguments on appeal

24 The Wife argues that the DJ erred in:[25]

(a) classifying the marriage as a short one;

(b) ruling that the indirect contributions was zero on both sides, against the parties' own contentions that there had been indirect contributions by each;

(c) attributing all the expenditures from the parties' joint bank account to the Wife and stating that the Wife had agreed to this;

(d) failing to consider the Husband's Riverfront Flat purchase as part of the Wife's contribution, in that it was likely purchased in part from the parties' mingled funds, and the Husband was unable to show that it was not;

(e) finding against the Wife for spousal maintenance when the Wife did not ask for spousal maintenance;

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[24] ROA Vol 1–2 at p 26 at para 37.

[25] Appellant's case at para 9.

(f) ordering costs against the Wife, partly on the basis that the Wife had failed in her spousal maintenance claim (when she had withdrawn this claim very early on). The DJ further failed to take into account the Husband's conduct in failing to provide full and frank disclosure and that the Husband himself had agreed that each party ought to bear their own costs if he failed to get all he asked for; and

(g) making minor errors within his grounds of decision, including quoting incorrect dates, mixing up the parties, and incorrectly naming case law.

25 The Husband, on the other hand, contends that the DJ did not err in the above respects. However, during the hearing before me, upon a query from the court, the Husband conceded that the DJ erred in considering, for the purpose of assessing costs, that the Wife failed in her spousal maintenance claim (see [22] above). Nonetheless, the Husband maintains in his submissions that there were *other* good reasons as to why costs were ordered against the Wife. These pertain mainly to the Wife declining the Husband's request for mediation after the grant of the interim judgment, the Wife purportedly delaying the proceedings in various ways, and the general untimeliness of the Wife in complying with court deadlines.[26]

My decision

26 It is well-established that an appellate court "will not interfere in the division orders made by the judge below unless it can be demonstrated that the judge had erred in law or had clearly exercised his discretion wrongly or had taken into account irrelevant considerations or failed to take into account

[26] Respondent's case at para 58.

relevant considerations": *Chan Tin Sun v Fong Quay Sim* [2015] 2 SLR 195 at [19]. In this regard, aside from the DJ's decision to divide the assets solely on direct financial contributions as well as his decision to award costs against the Wife (matters I will turn to in due course and discuss in some detail), my view is that none of the Wife's contentions on appeal warrants appellate intervention. I take each issue in turn.

Attribution of expenses from the joint bank account to the Wife

27 The Wife argues that the Husband's claim that the Wife had spent S$42,610.85 from the joint bank account is not backed up by the evidence. This, she says, is because the Husband has only provided bank statements for the relevant period (during which 92 transactions were made, including deposits and withdrawals), and these bank statements do not show any details besides the fact that these transactions were made.[27] The Wife also argues that the Husband was only able to identify 50 transactions that were indisputably attributable to the Wife – consequently, the remaining 42 transactions ought to be attributed to the Husband instead.[28] Further, the Wife submits that the DJ was wrong to say that she did not deny that the S$42,610.85 was spent by her, as she claims that she *did* deny it in her 2nd Affidavit of Assets and Means and during the hearing before the DJ.[29]

28 In my view, the DJ was entitled to conclude that the expenses amounting to S$42,610.85 from the joint bank account were made by the Wife. It would be impracticable to expect the DJ to have gone through every single transaction

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27 Appellant's case at paras 20–22.

28 Appellant's case at paras 25–26.

29 Appellant's case at para 29.

and to require proof of who took out the monies and how the monies were expended; instead, the DJ was fully entitled to take a broad-brush commonsensical approach to such expenses.

29 As for the Wife's claim that she denied spending the S$42,610.85 from the joint bank account, I saw nothing in her 2nd Affidavit of Assets and Means that amounted to a denial. On the contrary, the Wife ***admitted*** in her 2nd Affidavit of Assets and Means that she took the S$42,610.85 for surgery for the dogs *and her own use*.[30] Moreover, even though counsel for the Wife contended during the hearing before the DJ that it was "[n]ot clear that [the Wife] took out money",[31] it is difficult to see how such a vague statement bereft of specifics serves as an effective repudiation of her own evidence in her affidavit that she had indeed taken out the money for her own use.

30 I would further add that such an admission is broadly in line with the evidence before the DJ. The parties were able to attribute 50 out of 92 transactions, and it is not disputed that all of these were made by the Wife. As the Husband notes in his submissions, upon a closer look and if one follows the paper trail at an even more granular level, there were even more transactions that were clearly incurred by the Wife.[32] The Wife does not dispute this (and indeed, it would be impossible to objectively dispute this, since the Husband's assertions were based on cross-referencing entries in bank documents). In stark contrast, the Wife has, to date, been unable to identify a single transaction that was incurred by the Husband. She merely states that the 50 transactions are the only transactions that have been indisputably attributable to her, and therefore

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30 ROA Vol 3 Part 3 at p 515 at para 18; Respondent's case at paras 17–18.

31 ROA Vol 1–2 at p 8.

32 Respondent's case at paras 20–22.

the rest were not hers.[33] As pointed out by the Husband, this appears to be a new argument on appeal.[34] Even then, it is an argument that does not get very far since, as noted above, the evidence remains that every single transaction that could be attributed was attributed solely to the Wife. In these circumstances, the picture that emerges is that it was largely, if not solely, the Wife who withdrew monies from the joint bank account, with the expenses largely going towards her own use.

31 Given the foregoing circumstances, the DJ did not err in concluding that it was the Wife, rather than the Husband, who primarily used the monies from the joint bank account. It was similarly not wrong for him to conclude, on a preponderance of evidence, that all the withdrawals from the joint bank account were made by the Wife, given that whatever evidence that was available pointed to only the Wife using the joint bank account. There is therefore no basis for me to disturb the DJ's findings on this front.

The DJ's finding that the Wife made no financial contribution to the Riverfront Flat

32 The Wife contends that some part of the S$90,000 which the Husband withdrew into his personal bank accounts belongs to her, because the S$90,000 came from the sale proceeds of the matrimonial flat. She claims that:[35]

> … as the Husband cannot show he has not mingled or utilised these funds, it should not have been accepted that these monies were not put towards his new property or that the Wife had made no Direct Financial Contributions to the Husband's assets.

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33 Appellant's case at para 26.

34 Respondent's case at para 20.

35 Appellant's case at para 37.

33 With respect, the Wife's arguments on this front are plainly speculative. Given the fungible nature of the funds, it would have been difficult, if not impossible, to expect the DJ to engage in a tracing exercise of where all the money went specifically. In the absence of contrary evidence from the Wife, the DJ was entitled to decide that the Wife did not contribute to the Riverfront Flat.

34 It also bears reiterating that the DJ found that the Husband was entitled to S$80,378.98 from the sale proceeds of the matrimonial flat (see [17] above). In the absence of evidence, it is not at all unlikely that the Husband could have easily topped up the remaining S$9,621.02 (to make S$90,000) using his own money, rather than using monies from the proceeds of the matrimonial flat.

35 I am thus not inclined to disturb the DJ's findings, which in any event, on the facts, appear to be the most sensible approach to take.

Spousal maintenance and costs

36 I next deal with the issues of spousal maintenance and costs, which I will deal with together as these are interrelated. During the hearing before me, the parties agreed that the DJ had erred in finding against the Wife on the issue of spousal maintenance, as the Wife had withdrawn her claim for spousal maintenance very early on.

37 However, this has minimal impact on the matter, save in relation to costs, which is a matter I will come back to below (see [77] onwards below).

Factual errors made by the DJ

38 The Wife also, in her submissions before me, points out certain "factual" errors made by the DJ in his grounds of decision. These include:[36]

(a) referring to the Husband as "Father" (even though the marriage was childless);

(b) wrongly stating that parties sought orders for the maintenance for the Wife (even though parties were no longer seeking such orders);

(c) stating the wrong hearing date;

(d) stating that the Wife did not deny that the expenditure from the joint bank account was attributable to her;

(e) various typographical errors; and

(f) erroneously dealing with spousal maintenance even though no such orders were sought.

I have already addressed the errors as stated in points (b), (d) and (f) at various points of my judgment above. I now turn to the remaining factual errors.

39 While the errors found in the DJ's grounds of decision are unfortunate, they are, with respect, clearly tangential to the substantive outcome. It is clear that such minute mistakes on the part of the DJ in his setting out of the hearing dates, and typographical errors in relation to case citations of a case that the DJ relied upon, have no relevance to the outcome in this case. Judges, like all humans, are not flawless. While unfortunate, errors of such nature are inevitable

[36] Appellant's case at para 76.

in judgments or grounds of decision from time to time. Indeed, as the Wife herself correctly observed in her written submissions, such "mistakes are a natural occurrence of life".[37] If a party raises such mistakes by a court as a ground of appeal, the key question that such a party must also concomitantly address is *how*, if at all, *such errors translate into a defect in reasoning or logic and, by extension, how this defect in reasoning led to an outcome that resulted in prejudice.* Pointing out mistakes, *per se*, would not otherwise suffice.

40 The Wife was not able to show any such causal connection. To the Wife's credit, during the course of oral submissions, when I highlighted the above points to her counsel, he readily conceded that the errors in question appeared to have minimal, to no, impact on the broader thrust of the DJ's decision.

The division of matrimonial assets

41 I now come to main issue in this case, which pertains to the DJ's application of the *ANJ* framework, and in particular, his decision to not consider the parties' non-financial contributions. It would be useful to first set out the *ANJ* framework. In this regard, as the Court of Appeal observed in *Twiss, Christopher James Hans v Twiss, Yvonne Prendergast* [2015] SGCA 52 at [17]:

> … In determining what would be a fair and equitable division of the assets, we followed the structured approach set out in *ANJ v ANK* (at [22]–[27]), which comprises the following broad steps:
>
> > (a) Express as a ratio the parties' direct contributions relative to each other, having regard to the amount of financial contribution each party made towards the acquisition or improvement of the matrimonial assets;

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37 Appellant's case at para 77.

> (b) Express as a second ratio the parties' indirect contributions relative to each other, having regard to both financial and non-financial contributions; and
>
> (c) Derive the parties' overall contributions relative to each other by taking an average of the two ratios above, keeping in mind that, depending on the circumstances of each case, the direct and indirect contributions may not be accorded equal weight and one of the two ratios may be accorded more significance than the other.

42 To recapitulate, the DJ found that this was a short dual-income marriage and relied on *Samuel Ong* (at [28]) for the proposition that "[i]n a short and childless marriage, the division of matrimonial assets will usually be in accordance with the parties' direct financial contributions as non-financial contributions will be minimal". The DJ therefore only assessed the parties' direct contributions. Using the *ANJ* framework as the scaffold for the discussion, the DJ's approach was to, in effect, *skip* the second step of the framework and to follow up by ascribing zero weight to the indirect contributions under the third step.

43 With respect, I am unable to agree with the DJ's understanding of the proper application of the *ANJ* framework on the facts of this case – in particular, in my view, the DJ erred in holding that indirect contributions were irrelevant given that this involved, in his view, a "short" marriage. As I will explain, aside from clear-cut cases, *ie*, where the marriage was effectively of a *de minimis* duration, it would be incorrect in *principle* to ascribe zero weight to the indirect contributions of the parties.

The DJ did not err in considering that the marriage was eight and a half years for the purpose of assessing indirect contributions

44 First, to deal with a preliminary point, I am of the view that the DJ did not err in finding that the parties' marriage was for eight and a half years (rather

than ten and a half years) for the purpose of assessing whether indirect contributions should be taken into account. I accept that the default position is that the parties' respective financial and non-financial contributions to the marriage are assessed for the period commencing on the first day of their marriage and ending on the date on which interim judgment is granted by the court: *WJZ v WJY* [2024] SGHCF 2 ("*WJZ v WJY*") at [122]. In this case, this period was around ten and a half years. *However*, the cases have made it clear that this is not an immutable or unyielding principle that can never be varied, and the court may elect to depart from this starting point when there are cogent reasons to do so in order to preserve the court's flexibility to ensure that justice is done in every case (*WJZ v WJY* at [124], referring to *ARY v ARX and another appeal* [2016] 2 SLR 686 ("*ARY v ARX*") at [35]).

45 Moreover, in determining the pool of matrimonial assets and valuing the assets, the court need not apply the same operative date to the two: *ARY v ARX* at [36]. In assessing the parties' indirect contributions and the weight to be placed on the latter, our courts have sometimes decided to use the duration from the commencement of the marriage to the date on which parties ceased to live with each other. The following examples are illustrative:

(a) In *Samuel Ong*, the parties were married on 1 July 2000. The wife applied for leave under s 94 of the Women's Charter (Cap 353, 1997 Rev Ed) to commence divorce proceedings before the expiration of three years from the date of marriage. This application was dismissed but the parties did not reconcile. The wife filed a second petition on 17 July 2003, and the decree *nisi* was granted on 19 September 2003. The Court of Appeal noted that the district judge in the Family Court found that, effectively, the marriage lasted for only 19 months.

(b) In *Wang Shi Huah Karen v Wong King Cheung Kevin* [1992] 2 SLR(R) 172 ("*Karen Wang*"), the parties were married in September 1986 and thereafter, the husband moved into the wife's family home. Around a year later, the wife left her parents' home due to differences between the parties. The Court of Appeal in *Samuel Ong* noted that this was a case "where the wife left home after a year" (*Samuel Ong* at [28]), and in this context cited this case as supporting the proposition that in short childless marriages, the division of matrimonial assets is usually in accordance with the parties' direct financial contributions.

46 To be clear, I am not suggesting that the duration from the date of the start of the marriage to the date on which parties began living separately is the appropriate duration to take into account in determining indirect contributions in *all* circumstances. Rather, I find that such an approach was appropriate and sensible on the facts of *this* case. There is no evidence that the parties contributed to each other's life or the marriage in general after the Wife left the Husband's parents' house. By that point in time, the parties were leading wholly separate lives and there was no realistic prospect of reconciliation. Since marriage is a "co-operative partnership of different efforts for mutual benefit" (see *ATE v ATD and another appeal* [2016] SGCA 2 ("*ATE v ATD*") at [32], citing Leong Wai Kum, *Elements of Family Law in Singapore* (LexisNexis, 2nd Ed, 2013) at p 663), it would be sensible, on these facts, to exclude the time from which parties stopped contributing to each other's mutual benefit in assessing the parties' indirect contributions and the weight to be placed on the latter.

47 I would also add that the DJ's approach was one which both parties appeared to accept, with counsel for both parties *explicitly* adopting the position

that the duration of the marriage should be assessed at the length of eight and a half years for the purpose of assessing indirect contributions.[38] While the parties' views on the matter are, of course, not determinative, their agreement on this issue before the DJ only further fortifies the view that it would be appropriate to consider the duration of the marriage to be eight and a half years for the purpose of indirect contributions. In my view, this agreement also significantly diminishes the force of any submission to the contrary made before me.

48 Nonetheless, I should add that for the reasons I have set out below (see the discussion from [49] onwards), the difference of two years (as between eight and a half and ten and a half years) should not, and does not, materially change the outcome of this case on the specific facts on this case.

Labels for the length of marriage are merely heuristics and not themselves dispositive in relation to indirect contributions

49 I now turn to make an observation about the DJ labelling this marriage as a "short" one, having assessed in effect that it lasted for just eight and a half years. In my view, the act of categorising marriages as "short", "moderate" and "long" is but a heuristic tool. To be sure, such heuristic tools are invaluable vehicles for categorisation, facilitating efficient understanding and organisation of what can be, at times, very complex discussions. Nonetheless, while they are useful in the large majority of cases, and are especially of utility in clear-cut cases, *eg*, in extremely short or lengthy marriages, these labels should not be unduly given weight and be allowed to take precedence over assessing the actual

[38] ROA Vol 1–2 at pp 15–16.

facts of the case. Indeed, such over-reliance on labels, especially in more unique cases, can result in injustice.

50 The injustice is perhaps best understood by appreciating the cliff effect that may follow from an inappropriate application of such categorisation. Take a hypothetical situation where the threshold of what constitutes a "short marriage" is ten years or less: would this mean that, all else being equal, the share of assets given to each party should vary fundamentally just because someone had been married ten and a half years (a marriage of "moderate length"), as opposed to nine and a half years (a marriage of "short length")? The answer, in my view, is obviously no. Indeed, it is the ingenuity and genius of the *ANJ* approach that it addresses this undesirable cliff effect by allowing the court to grant *different weightages* to direct and indirect contributions *to reflect the unique factual matrix of each case*.

51 It is precisely because of the overreliance and undue weight given to these labels, and the accompanying assumption that such labels must serve as the analytical frame for discussion on indirect contributions, that the parties before me ended up in somewhat lengthy and theoretical submissions on whether the marriage should be seen as one of "short length" or of "moderate length". The Wife contends that the DJ erred in concluding that the marriage was "short" and should have found that the marriage was of "moderate length",[39] while the Husband, unsurprisingly, takes the view that the learned DJ was correct in labelling the marriage as "short".[40]

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39 Appellant's case at para 58.

40 Respondent's case at para 49.

52 Such a discussion is, with respect, not very useful. As the parties' own positions before me illustrate, whether a marriage of eight and a half years is "short", of "moderate length", or "long", is an *inherently subjective inquiry* and premised on one's worldview and life experience. It is entirely reasonable for one to conclude that such a marriage is "short", just as much as it is entirely reasonable for another to conclude that a marriage of such duration is of "moderate length". Hence, to frame the issue in terms of whether the marriage was "short" or of "moderate length" would be to miss the woods for the trees. As noted above, these labels are intended as nothing more than convenient heuristic tools to aid the court in ascribing appropriate weight to a party's non-financial contributions to a marriage. The court must be wary of slavishly treating the labels *themselves* as dispositive and of allowing the labels to take precedence over assessing what would be equitable on the specific *facts* of each case. Facts, and not labels, should ultimately drive the division process.

53 None of what I have stated thus far should be taken to detract from our courts' stance that indirect contributions would in many cases be minimal, if not irrelevant, when it comes to "short marriages". However, it is important to understand what the courts in fact mean when they refer to "short marriages" in that specific context. On a survey of the cases, it would be clear that indirect contributions are often assessed to be either tangential or irrelevant in cases where the marriages were of such a brief nature that they did not even *factually* last the mandatory three-year period envisioned under s 94(1) of the Women's Charter, which provides that three years of marriage is the minimum period before a party may file a divorce application: *ie*, the situation in *Samuel Ong* and *Karen Wang* (see [45] of this judgment). For marriages of even a slightly longer (if nonetheless relatively modest) nature, our courts have typically given weight to the parties' indirect contributions. Thus, in *ATE v ATD*, the marriage

with one child lasted for around five years. The Court of Appeal noted that both parties were working, that they kept their finances apart, and that there was "a not inconsiderable amount of assistance on the domestic scene" (see *ATE v ATD* at [19]–[21]), and thus ordered that the appropriate ratio between direct and indirect contributions ought to be 75% and 25% respectively. Although *ATE v ATD* concerned a marriage with a child, I note that the parents had the assistance of both a full-time maid and the wife's mother who had moved in with them. Given the considerable amount of assistance in terms of raising the child, and the fact that both parents were working, the approach in *ATE v ATD* is, in my view, relevant to shorter marriages in situations involving no children as well.

54 Therefore, as can be seen from the above, as a matter of heuristics, when the courts speak of short marriages where indirect contributions are of little to no importance, it would appear that they are describing cases where the length of marriage is sufficiently *de minimis* such that the *effective* length of the marriage (*ie*, the time which parties live together and/or contribute to each other's lives) is even less than the duration of three years from s 94(1) of the Women's Charter.

55 Such a position makes eminent sense. The rationale behind the provision in question is to protect the sanctity of marriage and to ensure that parties do not rush into or out of marriage capriciously: *Ng Kee Shee v Fu Gaofei* [2005] 4 SLR(R) 762 at [21]. On the flipside, if parties *factually* separate or stop contributing to each other's lives before even three years have passed, it would be fair to assume that any element of a co-operative partnership for mutual benefit featured only very minimally. But even for such marriages, the proposition in *Samuel Ong* is *not* a hard and fast rule, and the court must still be cognisant of the *actual facts* pertaining to the marriage and the parties'

contributions to each other within the period of the marriage. If, for instance, the facts show that the parties had provided extremely substantial support to each other up in, say, a two or three-year marriage, it should certainly be open to a court to decide to accord some weight to such indirect contributions.

56 Furthermore, the general principle to accord some weight to indirect contributions in most circumstances should apply with equal force to marriages in which children do not feature. There is, after all, intrinsic value in the institution of marriage itself, which must feature in the division process. Marriage, in most cases, serves as a supportive framework within which husband and wife pursue their professional careers: see *UBM v UBN* [2017] 4 SLR 921 at [60]. One should therefore not downplay the role that marriage plays in facilitating each party's professional and personal achievements. In particular, the successes and achievements attained by each party to a marriage in a double-income, childless marriage should not generally be seen as being the result of individual hard work and effort, but as inextricably intertwined with the support, encouragement and sacrifices made by the parties to each other. This can manifest in a multitude of ways, from one partner taking on more domestic responsibilities to allow the other to excel in their career, to providing important emotional support to each other when facing the many hurdles of life. Indeed, as Debbie Ong J (as she then was) noted in *TDS v TDT* [2015] SGHCF 7 at [37], relying on the Court of Appeal decision of *NK v NL* [2007] 3 SLR(R) 743 at [20], even when a marriage is short and without children, "the fundamental principles and 'ideology of marriage as an equal *co-operative partnership of efforts*'" [emphasis added] should still apply.

57 Accordingly, while I am of the view that the Wife's characterisation that the failure on the part of the learned DJ to give any consideration to indirect

contributions "effectively indicate[s] that a childless wife is a worthless wife and her works and contributions to her husband are not recognised or accorded any weight" very much overstates the point, I accept that even in the context of a childless marriage, the parties would have ordinarily invested deeply in each other's personal and professional growth. The law in relation to the division of matrimonial assets should therefore, where possible, reflect the holistic nature of the institution of marriage and, in the process, honour the shared journey and investment (of time, effort and sacrifice) made as a partnership.

58 It should therefore be clear that *ANJ* should apply in full such that indirect contributions should be considered in a case like the one before me. Since the DJ did not calculate the parties' respective indirect contributions, it falls upon me to go through the *ANJ* framework afresh.

Application of the ANJ *framework to this case*

59 For the first stage of the *ANJ* framework, given that I am not inclined to disturb any of the DJ's findings pertaining to the joint bank account and Riverfront Flat (see [27] to [35] above), the ratio of direct contributions as between the parties (*ie*, 6.67:93.33 in favour of the Husband) remains exactly the same.

60 For the second stage, according to *TNL v TNK* at [47], the ascertainment of the ratio of indirect contributions should *not* be broken down into two sub-steps such that separate ratios are assigned to indirect financial contributions and non-financial contributions. Rather, the indirect contributions ought to be assessed using broad strokes, and the values to give to the indirect contributions of the parties is necessarily a matter of impression and judgment of the court: *ANJ* at [24].

61 On the facts, I am of the view that there is little to show that one party indirectly contributed more, or less, than the other.

62 The Wife argues that she made indirect contributions by, among other things, supporting the Husband in his personal and professional endeavours, accompanying him to social activities, caring for their pet dogs' needs and ensuring they received medical and grooming services, as well as their day-to-day care.[41] The Wife also claims that she attended to the Husband's needs as a devoted wife, helped with household chores, and accompanied the Husband's mother to help with household chores.[42]

63 The Husband argues that among other things, he paid for the Wife's yoga classes, beauty regimens and pet dogs. The Husband also took care of the pet dogs.[43] He apparently instructed his parents' helpers to cook her favourite dishes, do her laundry and wash her car. The Husband's parents also gave the couple the master bedroom. The Husband claims that he also paid S$500 each month to his parents as the couple's contributions towards the costs of the household.[44] Whenever the Wife had to travel, he would send her to the airport and fetch her home. The Husband would also buy gifts for the Wife and bring the Wife for dinners on anniversaries, birthdays and other special occasions. On these occasions, the Husband would pay for the meals.[45]

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41 Wife's Family Court submissions at para 76.

42 Wife's 1st Affidavit of Assets and Means at para 17.

43 Husband's Family Court submissions at paras 23 and 25.

44 Husband's Family Court submissions at para 22.

45 Husband's Family Court submissions at para 30.

64 It would be, in many ways, impossible to divine the truth from what has been asserted. Nonetheless, it does appear, on a broad level, that the parties' indirect contributions were roughly equal. As for the fact that the parties lived in the Husband's parents' house for approximately ten years,[46] I do not view this as forming part of the Husband's indirect contributions as the parties agreed that they would live at the Husband's parents' house rather than the matrimonial flat, which itself resulted in rent being paid for by the Wife's parents. This was thus not a case where the Wife was dependent upon a house which belonged to the Husband's family. I also do not place much weight on either parties' instructions to the Husband's parents' helpers purportedly for each other's benefit. After all, the availability of the helpers was incidental to the fact that they were staying in the Husband's parents' house.

65 The Husband also points to the Wife's purported extramarital affairs, claiming that they are "indicative that she was not committed to the marriage and made negligible contribution towards furthering the interest of parties as a partnership".[47] In this connection, I note that the Wife argues that the Husband would often spend time pursuing his own interests and thereby neglect her, which led to the parties drifting apart.[48] It is not the function of this court to cast blame on who is more responsible for the breakdown of the parties' relationship. However, I would observe that the fact that a party had an extramarital affair does not mean that the other party had *not* neglected the marriage as well. In the circumstances, I would generally view such assertions (even if they were true, which is not a matter I need to make a finding on here) as a largely neutral factor in ascertaining the ratio of parties' indirect contributions relative to each other.

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46 Husband's Family Court submissions at para 22.

47 Husband's Family Court submissions at para 39.

48 Statement of Particulars (Amendment No 1) at para 1(d).

66 The Husband further alleges that the Wife stole his Hublot watch which was purchased for the sum of S$6,650.[49] The Wife did not deny taking the watch and presented a pawn ticket for the watch. However, there appears to be some dispute as to whether the watch was given to the Wife as a wedding anniversary gift.[50] In my view, the family court should not be called upon to entertain or resolve allegations of civil or criminal liability. I thus do not factor in this watch in ascertaining the indirect contributions ratio. In any event, in the grander scheme of things, it is unclear how such an act can meaningfully translate into a reduction of a guilty party's indirect contributions.

67 Accordingly, applying a broad-brush approach, I think that a 50-50 ratio for indirect contributions is appropriate.

68 Taking the direct contributions ratio of 6.67:93.33 in favour of the Husband, the average ratio (between direct and indirect contributions, if both are weighted equally) as between the Wife and the Husband would be 28.33:71.67. The final step is to decide whether, and if so, how, to adjust the weight of the direct and indirect contributions ratios. The following passage from *ANJ* is instructive:

> 27 The circumstances that could shift the "average ratio" in favour of one party are diverse, and in our judgment, there are at least three (non-exhaustive) broad categories of factors that should be considered in attributing the appropriate weight to the parties' collective direct contributions as against their indirect contributions:
>
> (a) The length of the marriage. Indirect contributions in general tend to feature more prominently in long marriages ([*Tan Hwee Lee v Tan Cheng Guan and another appeal and another matter* [2012] 4 SLR 785] at [85]). Conversely, indirect

[49] Husband's Family Court submissions at paras 40–41.

[50] Husband's Family Court submissions at para 42.

> contributions usually play a *de minimis* role in short, childless marriages (*Ong Boon Huat Samuel v Chan Mei Lan Kristine* [2007] 2 SLR(R) 729 at [28]).
>
> (b) The size of the matrimonial assets and its constituents. If the pool of assets available for division is extraordinarily large and all of that was accrued by one party's exceptional efforts, direct contributions are likely to command greater weight as against indirect contributions (see *Yeo Chong Lin v Tay Ang Choo Nancy* [2011] 2 SLR 1157 ("*Yeo Chong Lin*")).
>
> (c) The extent and nature of indirect contributions made. Not all indirect contributions carry equal weight. For instance, the engagement of a domestic helper naturally reduces the burden of homemaking and caregiving responsibilities undertaken by the parties, and to that extent, the weight accorded to the parties' collective indirect contributions in the homemaking and caregiving aspects may have to be correspondingly reduced. The courts also tend to give weighty consideration to homemakers who have painstakingly raised children to adulthood, especially where such efforts have entailed significant career sacrifices on their part.

69 In this case, the considerations stated in (a) and (c) of the quoted paragraph are especially relevant. For (a), this was a marriage on the shorter side of around eight and a half years. While the length of this marriage does not suggest that indirect contributions were *de minimis*, it is one factor pointing towards less weight being given to indirect contributions, though I would again reiterate that the length of the marriage is but a convenient heuristic and cannot completely replace a factual assessment of the parties' indirect contributions. For (c), the parties relied heavily on the domestic helpers hired by the Husband's parents. Therefore, the weight given to the parties' collective indirect contributions in the homemaking and caregiving aspects should be significantly tempered. I might add that there is potentially some scope for application for (b) as well, in so far as while it remains unclear precisely how the purported "Commission from the Sale of [Company A]" came about, it appears unlikely

that the Wife contributed significantly to this, since she was not even aware of its existence or any of the Husband's work on this front. Nonetheless, I gave this only minimal weight in the entire calculus, since there is far too little information on the circumstances in which this income was received for me to make any meaningful or principled finding on this.

70 Moreover, in assessing the adjustment to be made, I also took into account the fact that the parties did not appear to invest much into building a shared life together. The Husband alleges that the Wife spent most of her free time with other people, leaving the Husband little opportunity for meaningful interaction with the Wife.[51] He claims that the Wife also had extramarital affairs since 2012,[52] which the Husband submits shows that the Wife was not committed to the marriage. On the Wife's part, she alleges that the Husband took "a *lassie faire* [*sic*] and care-less attitude toward life, and often spent time pursuing his own personal interests and neglecting the [Wife]".[53] This led to the parties drifting apart.[54] It is unnecessary for me to make any findings on these allegations, save to highlight that it is clear from the evidence before me that neither party was especially invested in the marriage. As I earlier stated at [65] above, I do not raise these facts to blame any party for the breakdown of the marital union. However, the fact that the parties did not put in much effort in building a shared life together is a factor that necessarily points towards the sensibility of ascribing lesser weight on indirect contributions.

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51 Husband's Family Court submissions at para 33.

52 Husband's Family Court submissions at para 37.

53 Statement of Particulars (Amendment No 1) at para 1(d).

54 Statement of Particulars (Amendment No 1) at para 1(d).

71 Ultimately, deciding the appropriate weight to be placed on indirect contributions is a matter of discretion based on the unique facts of each case. Indeed, as the Court of Appeal noted in *ANJ* at [30], "the court must approach the exercise with broad strokes based on its feel of what is just and equitable on the facts of the case".

72 Indeed, even during the hearing before me, counsel for the Wife conceded that the weightage given to indirect contributions must be tempered and suggested a weight of 20% be placed on them. Counsel for the Husband suggested that the weight be 0%. For rather self-evident reasons, I do not think that the parties' indirect contributions were so minimal such that zero weight ought to be placed on them. Indeed, to ascribe 0% weight to the parties' indirect contributions would be tantamount to rejecting all that I have alluded to in this judgment earlier. Nonetheless, it is also clear that even the Wife accepts that the weightage for indirect contributions cannot realistically be pitched at anywhere close to 50% given that the parties were assisted greatly by domestic helpers, and that the parties did not invest much into building a shared life together.

73 On balance, I am of the view that the Wife's assertion that a 20:80 weightage in favour of direct financial contributions would be fair. I would also note that in determining the weight for indirect contributions for relatively shorter marriages, our courts have ranged from giving indirect contributions a 50% weightage (*WAS v WAT* [2022] SGHCF 7 for a marriage of 11.5 years without children) to a 25% weightage (*ATE v ATD* for a marriage of five years with one child: see [53] above). In this regard, a 20% weightage for indirect contributions would not be at odds with the precedents and is also appropriate on the facts.

74 Accordingly, the overall ratio should be as follows:

	Husband	**Wife**
Direct (80%)	93.33%	6.67%
Indirect (20%)	50%	50%
Final ratio (with rounding)	85%	15%

75 Since the total value of the matrimonial assets is S$3,203,309.10, the Wife would be entitled to S$480,496.37 and the Husband would be entitled to S$2,722,812.73.

76 As a reminder, the DJ had found that the Wife was entitled to S$213,773.28 and the Husband was entitled to S$$2,989,535.82. This would be the position *after* the Husband has transferred S$9,758.63 to the Wife, as the DJ had ordered him to do. Given my findings above, in addition to the S$9,758.63, the Husband now owes the Wife an additional S$266,723.09. I thus order that the Husband shall transfer S$266,723.09 to the Wife in cash within four weeks from the date of this judgment. For the avoidance of doubt, this is above and beyond the sum of S$9,758.63 already ordered by the DJ. The parties would otherwise retain all assets in their name and possession.

Costs of the proceedings below

77 Finally, I come back to the issue of the costs order made by the DJ in this case.

78 I agree with the Wife that the DJ erred in the matter of costs. First, as I had noted earlier, in making the costs order that he did, it is not in dispute that the DJ appeared to place weight on the erroneous assumption that the Wife had sought spousal maintenance. Second, the Husband himself indicated that that each party should bear their own costs if the parties did not get what they each

asked for.[55] In this case, the Husband did not get all that he asked for because the DJ ruled against him in various areas. Third, it appears that the DJ failed to consider the Husband's improper conduct during the proceedings, in relation to (among other things) his failure to provide full and frank disclosure *even when explicitly instructed to do so by the DJ* and his dissipation of assets.[56] While the Husband submits that there were *other* good reasons why costs were ordered against the Wife (see [25] above), these were raised only on appeal and appear to be arguments that were made with hindsight. Indeed, as I noted earlier, his position now is also at odds with his own position on costs that was advanced before the DJ.

79 In my judgment, each party should bear their own costs for the proceedings below. In coming to this view, I have not generally considered the outcome of the DJ's decision. This is because the mere fact that one party gets a larger proportion of the assets than the other party does not mean that costs should be ordered in the former party's favour. In any event, in this case, neither party received the entirety of what they sought for before the DJ. I also note that while costs are generally a matter of the court's discretion (*TNL v TNK* at [66]), the *general* position appears to be that the court "in ordering costs must be sensitive that the cost order does not run contrary to the no-fault basis that underlies our jurisprudence on divorce": *AQT v AQU* [2011] SGHC 138 at [57], cited in *JBB v JBA* [2015] 5 SLR 153 at [18]. On the present facts, I do not see any reason for departing from this general position.

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55 ROA Vol 1–2 at p 17.

56 See ROA Vol 1–2 at pp 13–15 and pp 22–23 at paras 23–27.

80 Taking all the above into account, as well as the parties' argued positions on costs before the DJ, I am of the view that no order for costs should have been made for the proceedings below, and I so order.

Conclusion

81 For those reasons, I partially allow the appeal and make the following orders:

(a) the Husband is to transfer S$266,723.09 to the Wife in cash within four weeks from the date of this judgment (above and beyond the S$9,758.63 previously ordered by the DJ if the latter sum has yet to be transferred) (see [76] above); and

(b) the DJ's decision on costs for the proceedings below is reversed, with no order as to costs for those proceedings (see [79] above).

82 I will hear the parties on costs of this appeal.

Mohamed Faizal
Judicial Commissioner

Alfred Dodwell (Dodwell & Co LLC) for the appellant;
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